SUPREME COURT OF THE UNITED STATES.

No. ~~208~~. 93

THE PROVIDENCE TOOL COMPANY, PLAINTIFF IN ERROR,

vs.

SAMUEL NORRIS.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF RHODE ISLAND.

GOVERNMENT PRINTING OFFICE.

SUPREME COURT OF THE UNITED STATES.

No. 208.

THE PROVIDENCE TOOL COMPANY, PLAINTIFF IN ERROR,

vs.

SAMUEL NORRIS.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF RHODE ISLAND.

INDEX.

	Original.	Print.
Writ	1	1
Declaration	2	2
Plea	8	4
PLAINTIFF'S EVIDENCE.		
Testimony of Samuel Norris	9	3
Letter from M. H. Grinnell to Simon Cameron, June 5, 1861	13	7
Letter A from Samuel Norris to J. B. Anthony, July 4, 1861	17	9
" B from J. B. Anthony to Samuel Norris, July 8, 1861	19	10
" C from Samuel Norris to J. B. Anthony, July 10, 1861	20	11
" from same to same, July 11, 1861	29	15
Contract between the United States and the Providence Tool Company	32	16
Letter D from J. B. Anthony to Samuel Norris, July 12, 1861	35	18
" E from same to same, July 13, 1861	43	22
" F from same to same, August 2, 1861	44	23
" G from same to same, August 13, 1861	45	23
" H from Samuel Norris to J. B. Anthony, August 14, 1861	46	24
" I from J. B. Anthony to Samuel Norris, August 21, 1861	47	24
Testimony of Samuel Lehman	103	53
James S. Wheelock	135	68
Benjamin Flagg	140	71
Ansel E. Bradley	159	80
Frederick W. Camman	169	85
Thomas Warren	185	93
Marshall T. Burgess	213	106
DEFENDANT'S EVIDENCE.		
Testimony of John B. Anthony	241	121
Letter from Samuel Norris to J. B. Anthony, July 4, 1861	246	124

	Original.	Print.
Letter from J. B. Anthony to Samuel Norris, July 8, 1861	247	125
Samuel Norris to J. B. Anthony, July 10, 1861	249	126
J. B. Anthony to Samuel Norris, July 12, 1861	250	127
James F. Simmons to Edward Pearce, July 11, 1861	252	128
J. B. Anthony to Samuel Norris, July 13, 1861	252	129
Samuel Norris to J. B. Anthony, July 10, 1861	253	129
Richard Borden to J. B. Anthony, July 26, 1861	256	132
J. B. Anthony to Samuel Norris, August 2, 1861	257	132
Richard Borden to J. B. Anthony, August 13, 1861	259	133
J. B. Anthony to Samuel Norris, August 13, 1861	259	134
Samuel Norris to J. B. Anthony, August 14, 1861	260	134
J. B. Anthony to Samuel Norris, August 21, 1861	260	134
Same to D. H. Way, March 17, 1862	279	147
Testimony of Miles Moulton	295	159
Barton H. Jenckes	304	165
John B. Anthony, recalled	317	174
Stillman Moore	324	179
Robert P. Beals	336	187
David Brown	342	192
Henry W. Gardiner	350	198
James S. Brown	357	201
Thomas J. Hill	360	203
Richard Borden	361	205
Letter from J. B. Anthony to Richard Borden, July 25, 1861	363	206
Testimony of Rufus Waterman	364	206
Edward Pearce	367	208
Samuel M. Noyes	386	222
Edward Pearce, recalled	388	224
Tully D. Bowen	390	225
Letter from Samuel Norris to Tully D. Bowen, July 2, 1861	390	225
Same to same	391	225
Same to same, July 10, 1861	391	226
Same to same, July 11, 1861	392	227
Testimony of Philip D. Borden	396	230
Joseph P. Manton	398	232
Albert Briggs	401	233
Statement of E. S. Allen, master armorer, July 15, 1862	405	236
Testimony of Frederick W. Howe	405	236
J. B. Anthony, recalled	419	246
PLAINTIFF'S EVIDENCE IN REBUTTAL.		
Testimony of Samuel Lehman, recalled	421	247
Ansel E. Bradley, recalled	430	25
Governor Sprague, by agent	431	254
Thomas Warner	432	255
DEFENDANT'S EVIDENCE IN REBUTTAL.		
Testimony of Samuel Norris, recalled	442	262

DEFENDANT'S DEPOSITIONS.

	Original.	Print.
Deposition of Hon. Simon Cameron	459	272
General Ripley	469	277
Hon. James F. Simmons	477	280
Hon. Henry B. Anthony	493	287
Prayers for instructions	499	290
Verdict	503	291
Judgment	503	291
Petition for writ of error	505	292
Bond	507	292
Writ of error	509	293
Citation	510	294
Certificate of clerk	513	295

1 At a circuit court of the United States for the first circuit, holden at Newport, within and for the Rhode Island district, on the fifteenth day of June, A. D. 1862, before Hon. John Pitman, United States district judge for said Rhode Island district, presiding.

In the record of the proceedings of said court, among others, are the following, to wit:

SAMUEL NORRIS
vs.
THE PROVIDENCE TOOL COMPANY.

Be it remembered, that at the November term of said court, A. D. 1861, the following writ and declaration were filed:

Writ.

RHODE ISLAND DISTRICT, *ss:*

[SEAL.] *The President of the United States of America to the marshal of said district, or to his deputy, greeting:*

We command you to summon the Providence Tool Company, a corporation duly incorporated by that name by the general assembly of said State of Rhode Island, &c., and located, established, and doing business in the city of Providence, in the county of Providence, and State of Rhode Island, &c., in said district, and composed of citizens of said State and district, if they may be found in your district, to answer the complaint of Samuel Norris, of Springfield, in the
2 county of Hampden, and commonwealth of Massachusetts, and a citizen of said commonwealth and district of Massachusetts, at the next circuit court, to be holden at Providence, within and for the Rhode Island district, on the fifteenth day of November next ensuing the date hereof, in an action of the case, for that the said defendants have not kept and performed their promises and assumptions to the plaintiff made, but have broken the same, as by the declaration to be filed in court will be fully set forth, to the damage of the plaintiff one hundred thousand dollars. Hereof fail not, and make true return of this writ, with your doings thereon.

Witness the Hon. Roger B. Taney, our chief justice, at Providence, this 24th day of October, A. D. 1861.

HENRY PITMAN, *Clerk.*

Marshal's return.

UNITED STATES OF AMERICA,
Rhode Island district, sc.:

OCTOBER 25, 1861.

I have this day summoned the Providence Tool Company, by leaving a true and attested copy of this writ at the last and usual place
1 of abode of John B. Anthony, treasurer of said company, as commanded.

ALBERT SANFORD, *U. S. Marshal.*

1 At a circuit court of the United States for the first circuit, holden at Newport, within and for the Rhode Island district, on the fifteenth day of June, A. D. 1862, before Hon. John Pitman, United States district judge for said Rhode Island district, presiding.

In the record of the proceedings of said court, among others, are the following, to wit:

SAMUEL NORRIS
vs.
THE PROVIDENCE TOOL COMPANY.

Be it remembered, that at the November term of said court, A. D. 1861, the following writ and declaration were filed:

Writ.

RHODE ISLAND DISTRICT, *ss:*

[SEAL.] *The President of the United States of America to the marshal of said district, or to his deputy, greeting:*

We command you to summon the Providence Tool Company, a corporation duly incorporated by that name by the general assembly of said State of Rhode Island, &c., and located, established, and doing business in the city of Providence, in the county of Providence, and State of Rhode Island, &c., in said district, and composed of citizens of said State and district, if they may be found in your district, to answer the complaint of Samuel Norris, of Springfield, in the
2 county of Hampden, and commonwealth of Massachusetts, and a citizen of said commonwealth and district of Massachusetts, at the next circuit court, to be holden at Providence, within and for the Rhode Island district, on the fifteenth day of November next ensuing the date hereof, in an action of the case, for that the said defendants have not kept and performed their promises and assumptions to the plaintiff made, but have broken the same, as by the declaration to be filed in court will be fully set forth, to the damage of the plaintiff one hundred thousand dollars. Hereof fail not, and make true return of this writ, with your doings thereon.

Witness the Hon. Roger B. Taney, our chief justice, at Providence, this 24th day of October, A. D. 1861.

HENRY PITMAN, *Clerk.*

Marshal's return.

UNITED STATES OF AMERICA,
Rhode Island district, sc.:

OCTOBER 25, 1861.

I have this day summoned the Providence Tool Company, by leaving a true and attested copy of this writ at the last and usual place
1 of abode of John B. Anthony, treasurer of said company, as commanded.

ALBERT SANFORD, *U. S. Marshal.*

Declaration.

RHODE ISLAND DISTRICT, *sc.:*

Circuit court of the United States.

Samuel Norris, of Springfield, in the county of Hampden,
3 and commonwealth of Massachusetts, and district of Massachusetts, a citizen of said commonwealth and district, complains of the Providence Tool Company, a corporation duly incorporated by the general assembly of the State of Rhode Island, &c., and located, established, and doing business in the city of Providence, in the county of Providence, in said State of Rhode Island, &c., and composed of citizens of the State and district of Rhode Island, summoned by the marshal in an action of the case.

For that whereas the said company, desiring to obtain an order from the government of the United States for a large number of muskets to be made by said company, on the 1st day of June, A. D. 1861, at said city of Providence, promised the pl'ff that if he would obtain, or cause and procure to be obtained, an order from said government upon said company, or an offer from said government to contract with said company, for not less than twenty-five thousand muskets, to be made by said company, for a consideration satisfactory to said company; and if said company, in accordance with such order or offer, should in fact contract with the government aforesaid to make that number of muskets, the said company should pay to the pl'ff, for his services in obtaining or causing and procuring to be obtained such order or offer, and for his commissions upon such contracts, all that the said government might, by the terms of such contract, promise or agree to pay for said muskets, and their appendages, over and above seventeen dollars for each musket:

4 Now, the pl'ff in fact says, that relying upon the aforesaid promise made to him by said company, he did afterwards, to wit, on the 13th day of July, in the year 1861, obtain and cause and procure to be obtained from the government of the United States an order upon, and an offer to contract with, said company for twenty-five thousand muskets, to be made by them for said company for a consideration satisfactory to said company, and that thereupon, and in accordance with said order and offer, said company, on the 13th day of July, in the year 1861, did in fact contract with said government to make that number of muskets, and their appendages, and by the terms of such contract said government agreed with said company to pay them therefor twenty dollars for each musket, amounting for all of such muskets and appendages to the sum of five hundred thousand dollars, and in consideration of the premises said company afterwards, on the day last aforesaid, at said city of Providence, promised the pl'ff to pay him on demand the sum of three dollars on each of such muskets, amounting for all of the same to the sum of seventy-five thousand dollars.

Also, for that the defendants being desirous of obtaining from the government of the United States a contract for making for said gov-

ernment a large number of other muskets, and desiring for that purpose to avail themselves of the pl'ff's experience, knowledge, and
5 skill in making and obtaining contracts for mechanical works, and relative to mechanical business, on the first day of June, in the year 1861, at said city of Providence, promised the pl'ff that, if he would use his best efforts to obtain from said government a contract with the defendants for at least twenty-five thousand muskets, to be made by the defendants for a consideration satisfactory to them; and if the said defendants should, in fact, obtain from and enter into with said government, a contract for at least that number of muskets, to be made or caused to be made by said defendants for said government, then the said defendants would pay to the plaintiff, on demand, for his services in obtaining said last-mentioned contract, and for his reasonable commissions thereon, all sums which said government, by the terms of the contract last aforesaid, might and should promise and agree to pay to said def'ts for said last-mentioned muskets and their appendages, over and above seventeen dollars a musket. And the pl'ff, in fact, says, that relying upon the last-mentioned promise of the def'ts, he afterwards did use his best efforts, with diligence and perseverance, to obtain from said government a contract with the def'ts for at least twenty-five thousand muskets and their appendages, to be made or caused to be made by the def'ts for a consideration to be paid by said government, satisfactory to the def'ts; and that afterwards, to wit, on the 13th
6 day of July, in the year 1861, at said city of Providence, the def'ts did, in fact, obtain from and enter into with said government, a contract in writing for twenty-five thousand muskets and their appendages, to be made or caused to be made by the def'ts for the government of the United States, by the terms of which last-mentioned contract, said government agreed with the def'ts to pay them for said last-mentioned muskets and appendages, twenty dollars a musket, being for all the same the sum of five hundred thousand dollars, and in consideration of the premises, the def'ts afterwards, on the day last aforesaid, at said city of Providence, promised the pl'ff to pay him, on demand, for his last-mentioned services, and commissions, three dollars on each of the muskets last aforesaid, amounting for all of them to the sum of seventy-five thousand dollars.

Also, for that the said company, on the first day of August, in the year 1861, at the city of Providence, in the county of Providence and State of Rhode Island, being further indebted to the pl'ff in the sum of seventy-five thousand dollars for the services, care, skill, and diligence of the pl'ff, by him before that time rendered, performed, and bestowed, as agent of said company, and at their request, in obtaining an engagement and contract from the government of the United States, to pay said company a large sum of money for certain muskets and appendages other than, but similar to, those
7 aforementioned; and for his reasonable commissions as such agent upon said engagement and contract, then and there, in consideration thereof, promised the pl'ff to pay him said last-mentioned sum on request.

Also, for that the said company on the 1st day of October, A. D. 1861, at said city of Providence, in consideration that the pl'ff had before that time done, performed, and bestowed other his services, care, skill and diligence, as agent of said company, at their request, in obtaining from the government of the United States a certain other engagement and contract to pay said company, or their order, a large sum of money for certain other muskets and appendages, promised the pl'ff to pay him so much money as he reasonably deserved to have therefor, on demand, which the plaintiff avers to be the sum of seventy-five thousand dollars; of all which the said company then afterwards, on the day last aforesaid, had notice.

And also, for that the said company on the 1st day of October, A. D. 1861, at said city of Providence, in consideration that the pl'ff had before that time done, performed, and bestowed other services, care, skill, and diligence, for the said company, and in and about other business of said company, at their request, promised the pl'ff to pay him therefor so much money as he reasonably deserved to have, which the pl'ff avers to be another sum of seventy-five
8 thousand dollars; of all which the said company thereafterwards, on the day last aforesaid, had notice.

Yet, though often requested, the said defendants have not paid either of said sums, but neglect and refuse so to do, to the damage of the plaintiff one hundred thousand dollars, as laid in his writ dated the 24th day of October, in the year 1861. Wherefore he sues.

By his attorney,

JOS. M. BLAKE.

Plea.

And the defendant corporation comes and defends the wrong and injury, when, &c., and say that they never promised in manner and form as the plaintiff hath in his declaration complained against them, and of this they put themselves upon the country.

By their attorneys,

BENJ. F. THURSTON.
ABRAHAM PAYNE.

And the plaintiff likewise, &c.

By their attorney,

JOS. M. BLAKE.

And the case being continued to the present June term, A. D. 1861, it is then called for trial before the following jury:
9 Edmund J. Townsend, foreman; William P. Mott, John Babcock, Horace Brightman, Rodney Bennett, John B. Child, William G. Carr, George Cole, Benj. S. Clarke, Stephen G. Tucker, William Fludder, Daniel B. Knight.

And to maintain and prove the issue on his part, the plaintiff offered the following evidence:

Testimony of Samuel Norris.

Examined by Mr. Hazard:

Q. Mr. Norris, what is your present residence and business?

A. Springfield, Massachusetts, and my business is manufacturer and contractor.

Q. Of what, Mr. Norris?

A. Contractor in gun work.

Q. In what were you engaged, sir, in the spring of 1861, about a year ago?

A. I was then agent for an English house, and manufacturer of nails.

Q. What has been your previous business experience? Please to state it briefly.

A. Well, sir, I have been engaged in the manufacturing business (sugar business) and commercial business.

Q. Where was that?

A. In Bristol, R. I.

Q. Was the sugar-house now standing there built by you and your partners?

A. Yes, sir.

Q. What commercial business were you engaged in?

A. Well, we owned several vessels, and engaged in the Cuba trade.

Q. While you owned the sugar works?

A. Yes, sir.

Q. About how many vessels?

A. Well, the largest number—we averaged about six—from four to eight vessels at a time.

Q. Not all owners, but agents and owners, conducting the business?

A. Yes, sir.

Q. Had you any connection with the founding of the railroad then in Bristol?

A. Yes, sir. I used my best efforts therefor, in Bristol, and I succeeded somewhat.

Q. What subscription did you and your firm make?

A. I think we made the largest subscription that was made.

Q. Now, sir, you say that you have been agent.

Mr. Blake: Ask him if, when that railroad was given up, Mr. Norris did not take hold and present a plan by which it was carried on?

A. Yes, sir; I was one of those parties by which it was again carried on.

Q. By Mr. Bradley: You did what?

A. Well, I revised it and put it in shape to go on again.

Q. By Mr. Hazard: Now, as agent in England?

A. I have been abroad to introduce new machinery, and establish business on the other side of the water, and I succeeded in establishing it in Holland and Belgium.

Q. Are you concerned in business there now?

11 A. Yes, sir; I have business interests there.

Q. Your brother is there now?

A. Yes, sir. And besides those countries, France and Russia, sir.

Q. How many years were you thus employed in the whole amount?

A. Well, I was there some six different times. I was there varying from three to nine or ten months at a time; or, rather, six months was the longest time.

Q. Now, I will ask you where you were, sir, in the spring of 1861?

A. Mostly in Washington.

Q. From what time? How early were you there?

A. About the 7th of March, 1861, I went there.

Q. How long time did you remain?

A. I was there off and on, I should think, from one-third to two-thirds of the time.

Q. What were you doing while there?

A. Well, I was trying to make business of various kinds.

Q. Now, sir, please state to us what was your first connection and communication with the Providence Tool Company, or any of its agents.

A. About the 1st of June, 1861, I called upon Mr. John B. Anthony, agent of the Prov. Tool Co.; I asked him if he would like a contract for Springfield muskets. He said he would if they could get a contract sufficiently large. He asked me if I thought I could get one. I told him I thought I could. I asked him how large a contract he would require. He said 50,000; a contract for 50,000 muskets. I asked him at what price. Well, said he, if I could get

12 a contract for 50,000 muskets at $15, he would pay me a good round commission for it. I asked him how much he would pay me. We will pay you a good round commission, he answered. I asked him again, what will you pay me? We will pay you liberally; how much do you want? he asked. I said, one dollar per musket. He said, that's too much; you get the contract and we will pay you liberally for it. I will tell you what we will do: we will pay you all over $15, if it is $5 per musket.

Q. Well, sir, what did you next do after that?

Question by Mr. Payne, counsel for def'ts: What reply did you make to Mr. Anthony?

A. I do not know that any reply was made.

Q. Then you did not accept it?

A. It was certainly accepted. We had some talk about the quantity he could produce. I asked him if he could produce 2,000 arms in four months, and he said he thought he could.

Q. By Mr. Bradley, counsel for pl'ff: Well, sir, state the whole of that conversation, or, if that is all, pass on.

A. That is about all of it, and I left.

Q. What did you do?

A. I called upon Mr. Moses H. Grinnell and told him I wanted a

letter to Gen. Cameron, Secretary of War. I told him I wanted to get a contract for muskets. He asked me who was going to build the muskets. I told him the Providence Tool Company, of Providence, R. I.

Q. What further occurred between you and him?

A. He asked me as to the credit of said company, and I described as well as I could, the character of the proprietors so far as I
13 knew. He asked me if it was a corporation. I told him it was. I was not aware at that time whether the stockholders were liable individually, and I told him so. My interview resulted in his giving me the letter which has been read. I went immediately to Washington. (Mr. Norris reads the following letter of June 5th, 1861, from Moses H. Grinnell to Simon Cameron:)

NEW YORK, *June 5th*, 1861.

Hon. SIMON CAMERON,
Secretary of War, Washington:

SIR: My friend, Mr. Samuel Norris, of Rhode Island, will hand you this note. Mr. Norris desires to present to you a proposition for the manufacturing of muskets for our gov't. He represents the Providence Tool Co., an establishment at Providence, and in first-rate credit. Mr. Norris is a gentleman, and one in whom you may repose full confidence. I therefore recommend him to you, hoping that he may be able to present such a proposition to you as may be advantageous to the gov't and himself.

I am, very truly, yours, &c.,

M. H. GRINNELL.

Q. You say you went to Washington and took this letter with you?

A. I went to Washington from there; on the 6th day of June I called at the War Department; I did not see Gen'l Cameron on that day; I called upon Gen'l Ripley, chief of ordnance; I pre-
14 sented Mr. Moses H. Grinnell's letter by way of introduction. I had a long talk with Gen'l Ripley in regard to this contract and in regard to the Prov. Tool Co., urging upon him the giving of the contract to that co. He told me that the Secretary had directed him to make a report as to the condition of the gov't in the way of arms, its requirements, &c. That report he was then making, and he said that nothing would be done until that report was made. I had various interviews with Gen'l Ripley upon this subject, at his office and on the street. We were stopping at the same hotel. Meantime I delivered at the War Department my letter from Mr. Grinnell, and also a letter from Mrs. Lincoln, the President's wife. I stated to Gen'l Cameron, Sec'y of War; he asked me what I desired.

Q. Through these letters you had an introduction with them to Sec'y Cameron?

A. Yes, sir, certainly. He told me—(upon the presentation of Mrs. Lincoln's letter I had an interview with Sec'y Cameron.) He asked what I desired; I told him I wanted a contract for arms.

Q. Do you recollect any other introduction to Sec'y Cameron prior to that time ?

A. I was introduced to Gen'l Cameron in March by Capt. Todd, now Gen'l Todd, representative from the Territory of Dakota.

Q. Was he related to Mrs. Lincoln ?

A. Oh, yes, sir; he was cousin of the President's wife.

Q. Her name was Todd. You met him at the White House ?

A. Yes, sir.

15 Q. Now, you went in to see the Sec'y, and were asked what you desired ?

A. I told him I desired a contract for arms; he told me Gen'l Ripley had the particular charge of that department, and desired me to go to see him and tell him what I desired.

Q. This was at the Mrs. Lincoln's letter interview ?

A. Yes, sir; he referred me to Gen'l Ripley. Accordingly I had another interview with Gen'l Ripley. Gen'l Ripley told me that he had made his report for the Sec'y in preparing his report for the message to Congress, which was to meet on the 4th of July. He told me, also, he had recommended the Sec'y giving contracts of 25,000 muskets each. Immediately after receiving that information I went home to R. I.

Q. After getting that information ?

A. Yes, sir, I went up to Providence. I called upon Mr. Anthony a second time. The second time I called upon the 2d day of July.

Q. I will ask you (I do not recollect how the fact is) whether previous to your return there had been any correspondence at Washington ?

A. No, sir. On the 2d day of July I called upon Mr. Anthony. I stated to him that the chief of ordnance had told me that the contracts would be given out in quantities of 25,000 instead of 50,000. I asked him if he would like such a contract. Yes, he said, if the price was correspondingly large, or the price was sufficient ; language to that effect. I asked him what price. He said I do not know. I said supposing I could get $17. Said he, take it at once; take it at once; do not hesitate. I then asked him if he thought he

16 could produce 2,000 arms in 4 months. He said it would be ample time. I then told him. I asked him in regard to the corporation, what its capital was, as I was using New York influence, and they would like to know, or influence of an important character ; something like that. He said the nominal capital was $180,000, but the private property of all the stockholders was holden for the last dollar of the obligations of the company. That was all that occurred, or about all that occurred, and I went to New York and thence to Washington.

Q. Immediately returned ?

A. Immediately, sir ; reaching Washington on the 4th day of July, which was Thursday. After the parade was over I went to Gen'l Ripley's office. I had a very long interview with Gen'l Ripley.

Q. The parade ?

A. The New York troops paraded, you remember. I again stated to him that I desired a contract for the Prov. Tool Co. I presented in as strong language as I could use the facilities of this co., the responsibility of the co., and the zeal of Rhode Island, and every argument that it was possible for a person to use. I told him that the company would produce 2,000 arms in 4 months. He said it was impossible; it had never been done on either side of the Atlantic. I answered him, we should work night and day to accomplish it. He told me the Sec'y had about determined to give out four contracts of 25,000 each, and had about selected the
17 parties to whom to give them. I urged, in the most earnest language possible, his giving the contract to that company.

Q. Did he state at that time who the parties were?

A. He did not, sir; only that four had been determined upon. I insisted upon it that this co. would produce 2,000 arms in 4 months. He asked me how many they would produce after that? I told him I thought they would produce 3,000, but I wanted to make a safe contract for the company, and would say 2,000. Gen'l Ripley then got up and looked me in the eye, and said, "Do you mean to say you will produce 2,000 arms in 4 months, and 2,000 each month after till the work is completed?" I said, "Yes, sir." Said he, "Will you utter any complaint if the gov't refuse to receive these arms if they are not delivered in time, or according to agreement?" I said, "No, sir." Said he, "Upon your strong recommendation I will recommend the Sec'y upon your strong recommendation. (He was then at Fortress Monroe for 2 or 3 days.) I will recommend the Sec'y giving you a contract of from 10,000 to 25,000." I thanked him, and went to my room and wrote this letter to the Prov. Tool Co. (Reads letter A.)

WASHINGTON, *July 4th*, 1862.

JOHN B. ANTHONY, Esq., *Treas'r, Providence.*

MY DEAR SIR: The object of this is to say, I think it most important that you shall come here at once. I have just left Col.
18 Ripley, having had a long interview with him. I am satisfied a contract can at once be obtained for 25,000 arms, if they can be satisfied that you can build them as we talked on Tuesday last. I distinctly told him you were ready to contract for the above number, agreeing to turn out 2,000 in four months, and that number each month after. He as good as said he would recommend the Sec'y to make such a contract; but as he is absent from town for a day or two, he cannot see him, but will do so at once on his return. He tells me that the Sec'y has about determined to give out four contracts to four parties who have applied, but that he (the col.) would be disposed to recommend an additional contract with your company from my strong recommendations as to what you can do. The price was not mentioned, and I did not consider it well to mention it at present; that I know can be fixed satisfactory. I therefore would advise you getting all the letters that will give you in-

fluence, and coming on at once fully prepared to act. Political influence can be obtained here, but what will do more good are strong letters as to your ability to do work right and to push it through. I have said only what you said I could say; but I have put it to Col. Ripley in the strongest manner possible, and feel sure your coming would secure your desires. I shall remain, and shall expect you Monday or Tuesday. The sooner the better, I think.

19 I am, my dear sir, faithfully yours,

(Signed) SAM'L NORRIS.

P. S.—I was half disposed to telegraph, but thought a letter would more fully give you my reasons why present efforts should be made.

Q. The letter you read then was a copy furnished by the company?

A. It was a copy furnished by the company. I kept no copy of the letter—took no copy.

Q. You had that confidence that you took no copy?

A. Yes, sir; I wrote this letter on the 4th day of July; I expected Mr. Anthony on Monday or Tuesday, and Wednesday I went to the hotels and did not find him. It did not occur to me that I had not given him my address. I went to the post office and found this letter. (Reads letter B.)

(Copy.)

PROVIDENCE, *July 8th*, 1861.

SAM'L NORRIS, Esq., *Washington.*

DEAR SIR: I received your letter of the 4th on Saturday, 6th inst., but was not able on that day to see Mr. Waterman, whom I desired to confer with in the matter, and who is one of our directors. I cannot come to Washington at present, as I have to make a trip now in quite another direction; besides, it seems hardly possible that the gov't would pay for muskets a price which we could afford to contract for 25,000, we requiring new machinery and tools for the

20 purpose, and with the prospect that when this lot should be completed we should have no further business in this line. However, if the price paid is $17 each, it would amply pay to make the investment. If you will advise me further in the matter of any information you get that would be for our interest, I shall be glad for you to do so. You do not give any special directions; I must therefore simply address you at Washington.

Yours, very truly.

(Signed) J. B. ANTHONY, *Treasurer.*

To Mr. BLAKE: I went to the office on the 10th. That is the original. I went to my room and wrote this letter, a copy of which Mr. Anthony has furnished me. (Reads letter marked C.)

(Copy.)

WASHINGTON, *July 10th*, 1861.

J. B. ANTHONY, Esq., *Treas'r, Providence.*

MY DEAR SIR: I am this morning in receipt of yours of 8th inst. I regret your not being here; I have expected you since Monday morning. I again repeat that if a contract can be obtained at all, the price w'ld be satisfactory to you. Had I not have been confident of this, I sh'ld not have advised your coming. Col. Colt has already secured a contract for 25,000. There are several others in the field. I am to see the Sec'y of War to-morrow, with Senators Simmons and Anthony, and shall make a strong effort for a like con-
21 tract. You will remember you stated to me you c'ld produce 2,000 in four months of the Springfield pattern. This I have stated to the head of the Ordnance dep't. I have also said a like quantity c'ld be produced each month after. I think, however, you c'ld increase somewhat. Of course I shall try for all the time I can get for the first delivery, and the smallest quantity. What I want, however, is to know by telegraph from you if 4 months in time is sufficient, and 2,000 in quantity can be ready for the first del'v'y, if the getting of the contract depends on that time and quantity; also if 2,000 per month can be produced each month after till the whole 25,000 are completed; the arm to be the Springfield musket, and the price to be not less than $17. If you can do this, it may not be necessary for you to come on; for if the contract can be obtained in accordance with the above, and you see fit to empower me to act as your attorney, I can complete the transaction, only remarking that y'r instruction w'ld be my guide. Sh'ld you get this contract, I can help you very much in providing you, I think, with machinery and men; at any rate with information concerning both that w'ld be invaluable to you. I now hold the power of att'y of the Hope Iron Foundry and Mr. Henry Gardner, for which parties I have been acting. If reference is needed, I beg to refer you to Mr. T. D. Bowen. I w'ld suggest y'r sending me letters to our senators or the Sec'y, or both, from Mr. Waterman, Mr. Bowen, and any others that w'ld give weight and influence. This is a large matter, and promises great advantages to y'r company; and R. I. deserves the contract,
22 and no effort of mine will be wanting to secure it. I assure you, if I do anything, it will be done right and to your satisfaction. I am, truly, yours,

(Signed) SAM'L NORRIS.

Meantime I called upon Senators Simmons and Anthony, and stated to them that I desired a contract for the Prov. Tool Co., and desired them to go with me to the War Dep't. Mr. Simmons was engaged.

Q. Before you come to that part of y'r testimony, I will ask you if, prior to that, you saw other parties at Washington, and had their advice and suggestions?

A. Oh, yes, sir. I had a talk with Mr. Thurlow Weed about it, and also with Gen'l James, and found out about Col. Colt's contract.

Q. And what the gov't was willing to allow?
A. Yes, sir.
Q. What did Thurlow Weed tell you?
A. He advised me to go over and talk with Gen'l Ripley.
Q. Now go on.
A. Senator Simmons, on one of the two days that I called upon him, was engaged, he told me, at the caucus, and therefore he could not go; but I thought he was disposed to go with me; I saw nothing to the contrary. The same with Gov'r Anthony. The next day, which was the of July, I went over to Willard's Hotel to find Gov. Anthony. I found Gov'r Anthony in the entry. I told him I wanted him to go with me to see the Sec'y of War; I wanted a contract for the Prov. Tool Co. "Well," said he, "Mr. Norris,
23 I have had, I suppose, 200 or 300 applications, since I have been senator, to assist parties in getting contracts. I have always declined, because I think it wrong for a senator or member of Congress to interfere with the business of the various departments." I told him they all did it. He said that might be. I used the name of Mr. Waterman, Mr. Bowen, Mr. Pearce, as stockholders in the company, as an argument why he should go; the advantage it would be to Providence, in Rhode Island, the lack of labor, lack of employment. "Well," said he, "I do not think it right." "Well," said I, "Governor, I will not ask you to go with me to assist me to get a contract; all I ask of you is, to go with me and introduce me as a man of respectability, and say that the company I represent is responsible." Said he, "I will do that cheerfully. I will write you a note." Said I, "Thank you, Governor. I do not want a note; I want the weight of your presence with me; I want the influence of a senator with me." Said he, "Well, let Simmons go." Said I, "I have not seen him this morning. I think he will." "Well," said he, "I will go over and see him." He went over to Senator Simmons's room, and came back in a very few minutes and said Mr. Simmons would go. I asked the senator if it was best to get a carriage. He thought not; but I suggested that Senator Simmons was advanced in years, and it would be best to ride. Senator Simmons came over to
24 Willard's Hotel, and I went to find Gov'r Anthony, who had stepped one side. We took a carriage, we all got in, and we went to the War Department. We went up to the Sec'y's room, and the Sec'y had not arrived. The senators said to me, "We have some business at the Navy; we will go over there and return." I think it was Mr. Anthony, one of the senators. I think they both spoke about it. They went over and returned. Still the Sec'y was not in. I mean Gen. Cameron, Sec'y of War. I think Mr. Simmons said to me, "Mr. Norris, we will come with you to-morrow morning." Prior to this they said they must go, because it was nearly time for the Senate to meet. Senator Anthony said, "Yes, we will come this afternoon, if the Senate adjourns early. We will see you through, Mr. Norris." We came down stairs, came out in front of the War Department building, and I was just ordering the carriage up to a large stone in front of the building, for the senators to get in, when

Gen'l Cameron, the Sec'y, drove up. He got out of his carriage and shook hands with some 6, 8, or 10 gentlemen who were standing together near his carriage when he got out, and then he approached us. We were standing a little apart. He shook hands with the senators. I was formally presented. I shook hands with the Sec'y. One of the senators said—I think it was Mr. Simmons; I will not say certainly; I think it was Mr. Simmons—"Mr. Norris desires to get a contract for Providence," for a Providence co., or for the Prov. Tool Co., I do not know which he said. "It is just what we
25 want," says the Sec'y; "and if, Mr. Norris, if you will only make them fast enough, I will give you another order, and a larger one." Gov. Anthony spoke of the responsibility of this co.; said it was one of the most responsible concerns in the country. He spoke in complimentary terms of the co., and the Sec'y said something to this effect: that we approve of giving the orders of the gov't where the men come from, or those States that furnish the largest number of troops, or language to that effect. He said, "Gentlemen, or senators, you know Gen'l Ripley; go over and tell him what you want." I went up to Gen. Cameron and thanked him, and we all went over to Gen. Ripley's office, opposite the War Department. I said to the senators that I knew Gen'l Ripley, but I wanted the weight of their presence with me. We went in, and I was again formally presented to Gen'l Ripley. Gen'l Ripley remarked, "I think I have met Mr. Norris before." They stated that we came for an order for muskets for the Prov. Tool Co., a company of great means and responsibility, a large establishment, &c. Gen'l Ripley said. "I have just this moment signed a contract for 25,000." I remarked to the senators that it must be the Lamson & Goodenow, and went up to two gentlemen who were strangers to me, and said I thought they must be the fortunate men, and introduced myself. and found them to be the same that I had supposed, Lamson & Goodenow. They are from New York, and two places in Vermont, one in Vermont and Shelburne Falls, I think it is. The senators
26 said but a few words more, and turned to me and said, "Mr. Norris, we cannot do you any more good, can we?" Said I, "No." I thanked them many times for their kindness, and waited upon them to the door, told them to use the carriage as long as they required, and send the driver to the hotel for his pay, and left them. Gen'l Ripley said. "Mr. Norris, come over to-morrow morning. I have got to see the Secr'y first. You come here to-morrow morning, and I will be prepared to talk with you." I bid him good day and left. The next morning, promptly at 9 o'clock, I was at his office, and he told me he had not seen the Secr'y. I called again at noon, and Gen'l Ripley told me he still had not seen the Secr'y. In the mean time I was gathering all the knowledge I could at the War Department, and I knew when Gen'l Ripley was sent for by Gen'l Cameron, and knew when he saw Gen'l Cameron; but I called again, to be quite certain, and he told me he had not yet seen the Secr'y. Meantime I learned that Mr. Pearce—Mr. Edw'd Pearce—had arrived that morning to visit his two sons, who were in the first regiment;

one of the stockholders of this company. He had two sons in the first regiment, and I heard that he wanted to see me. I went out to the first regiment encampment—Camp Sprague. He told me he had heard from Mr. Simmons, or from another source—think it was Mr. Simmons—that there was some prospect of getting a contract for the Prov. Tool Co. I told him the whole story of the transaction up to that moment. I regarded it as very doubtful then. I had a
27 long talk with him, and also in his room at the hotel. (To Mr. Thurston.) I thought it very doubtful up to that moment, you know.

Q. (By Mr. Thurston, counsel for def't.) Did I understand you as saying that after you had gone over and seen Gen'l Ripley, and also discovered that he had gone to Sec'y Cameron—did you have an interview again with him before you went out to camp?

A. No. Yes, sir; no, no, I did not; I did not. I called upon him three times, I think, when I went out to camp.

Q. What was your object in seeing Mr. Pearce?

A. Merely as a party in interest in the matter. (To Mr. Hazard.) The next morning at 9 o'clock, or before, I called upon Gen'l Ripley. He told me that the Sec'y had directed him to write to or telegraph to parties in Ohio, before he could talk with me. I was very much downcast, and asked him if he had written or telegraphed.

Q. Go on as exactly in the order of time as you can.

A. He said that the Sec'y had determined to give out 4 contracts of 25,000; 3 had been given out, and last night the Sec'y had directed him to write or telegraph to parties in Ohio, before I could talk with you. I asked him when he expected to hear. He said, soon; he should not wait long. I bid him good morning and went; left him and ran as hard as I could to Willard's Hotel to find Mr. Pearce. I made up my mind that the first thing to do was to see the Sec'y of War. To that end I wanted Mr. Simmons to go with
28 me to insure his instantaneous action. I went up to Mr. Pearce's room. He was dressing, and told him the state of the contract and the liability of its being lost; that instant action was necessary. He seemed to be very lukewarm. I told him what I wanted. I wanted him to go with me and see Mr. Simmons. He said he would be down; he would dress and come down. Meantime I went over to Mr. Simmons's room 3 or 4 different times. I at last found that Mr. Simmons was at the Capitol in caucus. Mr. Pearce came down stairs and said he must get his breakfast. After some delay I asked him to go with me in the carriage. I took a carriage and we drove to the Capitol and found the senator in caucus. I asked an attendant to ask Senator Simmons to come out. He said he was not allowed to go into the caucus room, and suggested my speaking to a senator who was just going in. I asked the senator to tell Mr. Simmons that Mr. Pearce and Mr. Norris wanted to see him. The senator went in and Mr. Simmons came out. He invited us, Mr. Simmons did, into the ———. Mr. Pearce said first: Mr. Simmons, do you suppose this contract can be got so that it (this company) so that it can be taken home to their directors, that they may have the contract for

them to decide? I said, I do not desire to commit this company. What I desire is the contract to take home to R. I., and they can accept it or not. I will here say that the day before I had learned that the contract signed on the day before was sent home to
29 parties for their signature, and on Thursday, which was on the 11th, I wrote to Mr. Anthony the following letter:

WASHINGTON, *July* 11, 1861.

MY DEAR SIR: I wrote you yesterday, and now hasten to say, from what I can learn, that it is not necessary for you to come on, for if a contract can be got there will be ample time to carry it to Providence for y'r approval and signature. This will dispense with the necessity of a power of att'y. Learning that this has been done I of course conclude that it will be done in this instance, if I am so happy as to secure a contract. All I can say regarding my prospects, I hope to succeed; but these matters are so uncertain it is impossible to speak with confidence. I can help you in machinery if it is needed. Please address me at Willard's Hotel.

I am, in haste, truly yours,

SAM'L NORRIS.

J. B. ANTHONY, Esq.,
Providence.

I told Mr. Simmons that I did not wish to commit this company but I wanted to get this contract so that I could carry the contract home to R. I. and let them reject or accept it. I told him the danger which I was in, and the necessity of instantaneous action. I asked Mr. Simmons to go with me; he said he would. I suggested to Mr. Simmons if he would not suggest to the Sec'y the possibility that the company will not accept this contract. He said he would.
30 We took a carriage to go to the War Dep't. I asked Mr. Pearce to go with us, but he declined. On our way from Willard's Hotel to the War Dep't I told Mr. Simmons what I wanted. I told him I wanted a duplicate of Col. Colt's contract; that the only thing to do was to get an order from the Sec'y of War on Gen'l Ripley directing him to make a contract with this company. I spoke of the obtaining of the post office by his son. I said as many kind things as I could. We went to the Sec'y's rooms. Gen. Moulton was there, Gen'l Ripley and two or three others. After business with them Gen'l Cameron said, "Mr. Simmons, what can I do for you again?" Mr. Simmons said, "I came for that order." "What order?" said Gen'l Cameron? "An order for 25,000 muskets," said Mr. Simmons. "That you shall have," said Gen'l Cameron, and took his pen and wrote a short note. "What price are you paying?" said Mr. Simmons. "$20," said Gen'l Cameron. Mr. Simmons turned to me and said, "That's more than I thought." I stepped up to Gen'l Cameron and said, "That, sir, will be an exact duplicate of Col. Colt's contract." "Yes," said he, "an exact copy." Then he turned to Mr. Simmons and said, "What can I do for you, Mr. Simmons?" Mr. Simmons said, "I have two or three young friends who desire to be appointed lieutenants. I have not desired to trouble you with anything, you were so busy." We then

rose to go, and I went up to Gen'l Cameron and expressed in earnest
language my thanks, and he said, "I am very glad to give it to
31 you, sir." I went to him a second time as we were passing
out. I had taken my hat, and Mr. Simmons was walking out the door. I thanked him again, and he said, "I hope you will make a great deal of money out of it, sir." We went over, Mr. Simmons and myself, to Gen'l Ripley's office, and handed Gen. Ripley the note, Mr. Simmons, in the mean time, saying that it was an order for muskets. Gen'l Ripley meantime read the note. He said, "No, it is not an order for muskets; I will read it," and he read it; and, said Gen. Ripley, the Sec'y determined to give out four contracts; 3 have been given out—one to Col. Colt, one to Lamson & Goodenow, and one to Jenckes, of Phil'a, and the Sec'y told me to telegraph to Ohio, and if the Ohio party did not want it then give it to R. I. Said Senator Simmons, "I don't care for Ohio; I want the order." Said Gen. Ripley, "I must see the Sec'y." "I will go too," said Senator Simmons. I said, "Senator, stick to him." We went to the Sec'y's office. Gen'l Cameron turned to Gen. Ripley and said, "Gen'l Ripley, what is it?" Said Gen. Ripley, "You determined to give out four contracts, one to Col. Colt, one to Lamson & Goodenow, and one to Jenckes, of Philadelphia, and then you told me to telegraph to Ohio, and if the parties there did not want it to give it to R. I. Am I right?" said Gen'l Ripley to Sec'y Cameron. "That's right," said Gen. Cameron. "What shall I do?" said Gen. Ripley. Gen. Cameron said, "Give it to R. I., and let Ohio go." Gen'l Ripley turned round and said, "Gentlemen," turning to Senator Simmons and myself,
"I wanted to show you that I was right on the record," and
32 then came up to me and asked me if I would go over to his
office, as he was going in another direction at that time, and give the name of the parties I desired entered on the contract, and ask the clerk to make a duplicate of Col. Colt's contract. I said I would do so. I went over and told them what Gen. Ripley desired.

Q. Was Mr. Simmons with you?

A. No, sir; oh, no.

Q. What became of Mr. Simmons?

A. I left the office before Mr. Simmons to obey Gen. Ripley's desire, and told Mr. Simmons to use the carriage as long as he desired, and then send the driver to the hotel for his pay, which he did. No, gentlemen, I waited upon Mr. Simmons to the carriage and then went to Gen. Ripley's office. About 2 o'cl'k that afternoon I called at the Ordnance department and found that the contract had been made out, but it was not complete. It had not been made in duplicate, neither had it been signed. I told them I wanted the contract in duplicate, and wanted it executed by the government. It was then so late that I determined not to leave Washington that night but remain over until Sunday, and called again about 4 or 5 o'clock and found the contract executed in duplicate and had it delivered to me. (Mr. Norris reads the contract of 13th July, 1861.)

This agreement, made this 13th day of July, 1861, between

33 Brevet Brigadier General James W. Ripley, of the United States army, acting by authority of the Sec'y of War, and Providence Tool Company, of Providence, Rhode Island, by J. B. Anthony, treasurer thereof, witnesseth:

1st. That the said company binds itself and its assigns, to deliver to such officers of the United States as may be authorized to receive them, twenty-five thousand (25,000) muskets, of the exact pattern of the musket made at the United States armory in Springfield, according to sample to be furnished to the contracting party, all and each of the said twenty-five thousand muskets, to interchange in their similar parts with each other, and with the Springfield muskets, and to be subject, before receipt or payment therefor by the United States, to the same degree of inspection by the United States inspectors appointed for that purpose as the muskets made at the Springfield armory are subject to; and any of the aforesaid muskets, to be delivered by the said company under this agreement, which do not, in all respects and particulars of pattern, material, workmanship, and finish, come up to the standard of excellence as established at the United States armory, which is to be determined and decided by the United States inspectors, shall be rejected.

2. The said company does further bind itself and its assigns, to manufacture and have ready for inspection and delivery to the United States, the aforesaid twenty-five thousand muskets, not later than the following periods, namely: one thousand muskets not later than six months from the date of this agreement, and not less than one thousand muskets per month for the next three months, and
34 not less than two thousand muskets per month for each and every month thereafter, until the whole twenty-five thousand muskets shall have been delivered, with the distinct understanding that each or all of these deliveries must be made in as much shorter time as possible, and that on any failure to make deliveries to the extent and within the times above specified, all the obligations of the United States to receive or pay for any muskets then deliverable under this agreement, shall be cancelled and become null and void.

3. The said company does further bind itself, and its assigns, to deliver with the aforesaid twenty-five thousand muskets, the following appendages, of the regular pattern, subject to the same inspection as the muskets, namely, one wiper, one screwdriver, one spare cone, and one tompion to each musket, and one ball-screw, one spring-vice, and one tumbler and wire-punch to every ten muskets, and also to put in good boxes, to be provided by the company, of the regular pattern and quality, the aforesaid muskets, twenty in each box, with their due proportion of appendages.

4. It is expressly understood and agreed between the parties to to this agreement before named, that payments shall be made to the said company, or its order, on the receipt, at the Ordnance office, in Washington, D. C., of certificates of inspection and evidences of delivery, of not less than one thousand muskets, with appendages, at the following rates, namely: twenty dollars per musket and
35 set of appendages, inclusive, and such price in addition for

each packing box, as may be certified by the inspector to be just and fair.

5. It is further understood and agreed, that no member of Congress shall be admitted to any share or part of this agreement, or to any benefits to arise therefrom.

In witness whereof, the parties to this agreement have hereunto set their hands and affixed their seals, the said James W. Ripley, at the city of Washington, the thirteenth day of July, 1861, and the said J. B. Anthony, at the city of Providence, the twenty-fourth day of the same month and year.

JAS. W. RIPLEY, [SEAL.]
Bt. Br. Gen.
PROVIDENCE TOOL CO., [SEAL.]
By J. B. ANTHONY, *Treas'r.*

Signed and sealed in presence of—
W. MAYNADIER, Maj. of Ord., witness to
Gen. Ripley's signature.
Witness to signature of J. B. Anthony, treas'r:
FRED'K W. HOWE.

Q. When you took that paper it had been executed by Gen. Ripley?

A. Yes, sir.

Q. What did you do with it?

A. I then asked Gen'l Ripley about the sample musket, and he told me he could not tell when it would be ready. I then went to the hotel. On Sunday I received this letter. On Sunday, which was the 14th, I received this letter. This is from the Providence Tool Company. (Reads letter marked D.)

(Copy.)

PROVIDENCE, *July 12th*, 1862.

36 MR. SAM'L NORRIS, *Washington.*

DEAR SIR: I have y'r valued letter of the 10th. I doubt if we could turn out 2,000 muskets in 4 mo's; but after we got started, could produce 2,000 a month. We ought to have 5 mo's to produce the first 2,000 in. I cannot positively say that our company would make a contract at any price. What I desire to do is, to get all the information possible in the matter, and go so far with a contract that we can secure one if we wish. I can then report to our people, and an immediate decision can be made. Being without tools or machinery, it is quite different for us than for those already in the business; still I should think that the gov't, at the present time, would offer such inducements as would make for our interest even to do the work.

Yours, very truly,

(Signed) J. B. ANTHONY, *Treas'r.*

This was Sunday. Mr. Pearce was then at the hotel. I, of course, reported the success I met with the day before. I could not do so,

of course, that night; he did not arrive; he was away somewhere. I reported my success and showed him this letter. He remarked, "You have had very little to encourage you. It seems to me you have actually dragged Mr. Anthony into this business." That afternoon I left for Providence. In the mean time—I think it was Friday or Saturday evening, that I had long talk with Mr. Pearce about this business. Friday or Saturday evening, I will not say which. Mr. Noyes was present—Mr. Noyes, of Providence, a friend of Mr. Pearce—Sam'l Noyes. Mr. Pearce told me to talk freely before Mr. Noyes, saying that if the Tool Company did not take this contract, he should want Mr. Noyes to assist him, with others, in taking it, perhaps. He told me it was Saturday evening; it must have been Saturday, because we spoke of the thing as being accomplished. He told me that Mr. Bowen ought to manage this business—Mr. T. D. Bowen. He said Mr. Anthony was not competent; I mean to manage the manufacturing. I expressed my surprise, and told him I supposed he was one of the most accomplished business men in Providence. He advised me not to telegraph Mr. Anthony, but to see Mr. Bowen the first thing on reaching Providence, and to tell him that he must manage the business. He asked me what my arrangements with the company was for my compensation. I told him of my suggesting to this company the building of muskets; I told him of our talk as to the compensation upon $15. I told him of the agreement between Mr. Anthony and myself, to have all over $15 if I got a contract for 50,000. I told him that it had been changed from 50,000 to 25,000, and the price from $15 to $17.

37

Q. What did you tell him you were to have?

A. I told him I was to have $3 00 per musket.

Q. What did he say?

A. He spoke of—he said he did not believe Mr. Simmons would have gone for me. I told him I thought he would, but I told him I thought I ought to pay him for his services in going.

38

Q. (By Mr. Thurston, counsel for def't.) Do I understand you? Do you say that this was an obligation you felt?

A. I said to him I thought if he had aided me, I thought he ought to be paid.

Q. (By Mr. Payne, counsel for def'ts.) Did you mention any price that you would pay him?

A. No, sir.

(To Mr. Hazard, counsel for pl'ff:) That is about the whole of the conversation.

Q. You started for Providence on Sunday.

A. Yes, sir; I started for Providence on Sunday afternoon and reached Providence on Monday at 4 o'clock.

Q. On Monday, the 15th of July, you came on in the night train?

A. Yes, sir; I came right straight through. I went to Mr. Bowen's office, and very hastily shook hands with Mr. Bowen, and he took me right into his back room, where I found Mr. Anthony. They had

evidently been informed that the contract had been obtained. Mr. Anthony received me very cordially.

Q. You did not telegraph or write on Mr. Pierce's suggestion that you should not?

A. No, sir; he told me not to. Mr. Anthony received me very cordially, and told me that I had quite cheered them up. I was then asked particulars of the contract; I gave them all the points, I told them one important point was that no member of Congress
30 should be interested, and he said no stockholder of the company was a member of Congress. I told him of the fact that instead of 2,000 for 4 months it was 1,000 in six months, and then 1,000 in each three months after; and one thousand for each three months after. He seemed to be pleased, and said I should be paid well for it. I then said to him "What is it about my compensation, Mr. Anthony?" Said he, "You shall be paid, and paid liberally." Said I, "What about my agreement with you?" I then repeated that agreement that I was to have, if I got a contract for 50,000 at $15, all over $15, if it was $5 00 per musket, and then it was changed from 50,000 to 25,000 in quantity, and the price changed from $15 to $17 each. I was very much astonished when he said to me, "*It may seem peculiar, but I do not remember it.*"

Q. (By Mr. Blake.) Didn't he recollect the contract?

A. No, sir. He said, "It may seem peculiar, but I do not remember it." He did not deny it, however.

Q. What did he say?

A. "It may seem peculiar, but I do not remember it."

Q. What did he say about denying it?

A. I say that he did not deny that he made the contract.

Q. (By Mr. Thurston, for def't.) Do you mean to be understood that he used any such language that "he did not deny it?"

A. No, sir; not on that occasion. He did at another time, but not on that occasion.

(To Mr. Bradley, counsel for pl'ff:) I was overwhelmed with feeling. I had accomplished, as I thought, a great thing, to have it slip from under me in that way, and expressed my feelings very ear-
40 nestly. However, Mr. Anthony told me, "I have telegraphed the directors, and they will meet you to-morrow morning at 10 o'clock or half-past 10, at the office of the company," and we parted.

Q. (By Mr. Blake.) Would meet you at 10 o'clock?

A. Yes, sir. (To Mr. Bradley:) I left Mr. Bowen's office for a moment, and returned and found Mr. Bowen there. Mr. Bowen asked me what I expected to get for this contract.

Q. (By Mr. Blake.) That same day?

A. That same day. (To Mr. Bradley:) I told him all over $17, according to my contract with Mr. Anthony. He said "Mr. Anthony must have been a booby to have made such a proposition," or a word like that. He said, "Do you want me to tell you as a friend what I think you ought to have?" Said I, "Yes, sir." He said, "*You have acted the part of a broker, sir*; you ought to have 2½ per cent. commission;

that would be $12,500, and a larger sum than any jury would give you, the same commission to apply to all future contracts."

Q. (By Mr. Hazard.) That was Mr. Bowen's language?

A. Mr. Bowen's language, "All other contracts or all future contracts." (To Mr. Bradley:) And that it would be to my advantage. He spoke of the position of the stockholders of this company; thought it would be to my advantage to settle with them--with the stockholders of this company—at that rate, on account of the business position of the stockholders of this company. That night I went to Bristol;
41 the next morning I went to Providence, and went to the Tool Co's office. This was the next morning, Tuesday morning, I think it was, July 16, Sat. was the 13th, Sund. the 14th, Mon. the 15th. It may have been one of these dates, but I think it was Tuesday, the 16th. I found the directors had arrived, but as they were waiting for Mr. Bowen, I remained in the outer office. After about an hour or an hour and a half delay, or perhaps two hours' delay, Mr. Bowen came. I was invited in, and the directors were present with Mr. Bowen, who, I believe, was not a director. They asked—I believe Mr. Anthony spoke to me first; they wanted me to make a statement and present all the facts in this case, the contract made between us. I commenced a careful history of just my contract with Mr. Anthony. I stated to them how I had suggested the idea of their making guns. I told them that I asked Mr. Anthony the number he would require, and he named 50,000. I told them that he named also $15 as a price, and said that he would pay me and give me a good round commission upon that $15. I asked him to name and fix a price; that he asked me as to what I wanted, and I told him $1, and that he told me he would give me all over $15, if it was $5 per musket. Mr. Anthony said that he did not remember it.

Q. Is that all you stated? You have only gone so far as to state what you stated about the contracts, on the supposition that it was 50,000 muskets.

A. Then I spoke about the change from 50,000 to 25,000,
42 on account of what Gen'l Ripley had told me, and then from $15 to $17. I read them all the correspondence, carefully giving them every particular in regard to getting the contract, not naming particularly one or two letters. Mr. Anthony said he did not remember about it. I held up my hand and said, "As truly as there is a God in Heaven, and as truly as I hope to be saved, you uttered those words to me, Mr. Anthony." Mr. Anthony said, "I think very likely I did say it; I do not remember." He also said, "I will not pretend to say I did not say so. I think very likely I did say it; I do not remember."

Q. This was in the presence of the directors?

A. Yes, sir. I will not say Mr. Bowen was present, for he went out before the other directors; I think very likely he was; I will not be certain. They had to adjourn early on account of the boat. They had been detained so long they had to adjourn. I rode down on the boat with Mr. Philip D. Borden, one of the directors, and Mr. Anthony.

Q. Mr. Anthony here?

A. Yes, sir.

Q. And this gentleman?

A. Yes, sir. I appealed to Mr. Borden, before I left the office, if it was a very strange bargain to make, all over a certain price. He said no; it was a very common bargain. He said I ought to be well paid for going. I ought to be paid for it, or something like that. I said if they did not want the contract, I would give them $25,000
43 cash for it, to Mr. Borden. I said this going down in the carriage. Mr. Anthony said, "I do not know but I would give $50,000 cash for it." I said, "I don't know but I would too." We had a good deal of general conversation, and on the steamboat wharf, Mr. Anthony said that the compensation—rather hinting at Mr. Bowen's ideas—not that he stated that he knew what they were—he said the compensation was to be the same on all future contracts. They told me they had to go to Springfield, Hartford, and elsewhere, and they would be unable to see me before the next Thursday. I do not know but Friday or Saturday, or perhaps the next Monday. Meantime I received back from Washington the following letter. This letter I received back from Washington. It was addressed to me at Willard's Hotel, and they sent it back to me. (Reads letter E, July 12, 1861.)

(Copy.)

PROVIDENCE, *July* 13, 1861.

Mr. SAMUEL NORRIS, *Washington.*

DEAR SIR: I have to-day received your letter, and, as a matter of encouragement to you, have to say I have information from another source that your endeavors to secure a gun contract for our company will be very likely to be successful. I have also just had an interview with Mr. S. D. Bowen, who has strengthened me in this belief. It is my present purpose to leave here for Washington on Monday evening, and I shall be glad to meet you. If I make any other arrangements, will advise you by telegraph.

Very truly, yours,

J. B. ANTHONY, *Treas'r.*

44 Q. Was that letter dated on Monday?

A. Yes, sir, the Monday I arrived here. Well, I had various interviews with Mr. Anthony. He continually expressed one desire, to satisfy me, but would make no propositions, because he wanted to name a sum that would satisfy me. I suggested leaving it to men, and he approved of it; but said it would be a matter for his directors to decide. I then asked them for a proposition, and called upon them, and they made me a proposition in a letter from Philip Borden, and indorsed by Rufus Waterman, (Philip D. Borden.) They proposed to pay me, indorsed by Rufus Waterman. "I approve the proposition of Mr. Borden.—Rufus Waterman." I declined the proposition, and then offered to leave it to men. I told them that I would

select one fair and honorable man, and they should select the same, (another,) the two to select a third, and as they spoke of the long delay consequent or usual in such cases and I wanted to satisfy, I told them I would sign a written obligation to tell my story in thirty minutes. Yes, said I, more than that—15 minutes, and that I would agree to be satisfied with the verdict they should render. I then received a letter from Mr. Anthony, dated Aug. 2d, Providence. (Reads F.)

(Copy.)

PROVIDENCE, *Aug.* 2*d*, 1861.

Mr. SAMUEL NORRIS, *Bristol.*

45 DEAR SIR: Referring to the proposition I made you the other day in regard to settling your claim for commissions, I must now withdraw the proposition, and add that our directors decline referring the matter to other parties for adjustment. The claim must, therefore, remain unsettled for the present.

Yours, resp'y,

(Signed) J. B. ANTHONY, *Treas'r.*

I then called upon Mr. Anthony, and asked him for a director's meeting. I wanted once more to present the whole story; I thought if I could see them all together, I would induce them to meet this matter fairly, as I thought. He said that he would write the directors, and ask them if they would have a meeting; accordingly, I received this letter from Mr. Anthony, marked G, and dated Aug. 13th. (Reads.)

(Copy.)

PROVIDENCE, *Aug.* 13*th*, 1861.

Mr. SAM'L NORRIS, *Bristol.*

DEAR SIR: Replying to my letter of yesterday, Col. Borden writes me to-day as follows: "It is not convenient for me to come to Providence at present. I think the proposition to Mr. Norris was very liberal, and more than we can afford to pay him, and more than he ought to have. I should not be willing to renew that offer at present. I should rather let the matter rest until we are better informed what it will cost us to make them. I know of nothing neces-
46 sary to call the directors together for, before our regular meeting. At that time, we will of course consider any proposition he may make."

I have only to add our next regular directors meeting will occur on Wednesday, 21st inst.

Yours, truly,

(Signed,) J. B. ANTHONY, *Treas'r.*

I should say, however, that just previous to this, I made an offer to compromise this matter at $1 per musket. I had offered to compromise by taking $25,000, or satisfactory security.

Q. Did you make that offer in writing?

A. No, sir, verbally.

Q. What induced you to make that offer?

A. From the earnest desire to have the thing settled; to get my pay, or a portion of it.

Q. You were going into business at that time, or expecting to?

A. No, sir, not at that time. The last letter that I read was August 13, 1861.

Q. That offer of $25,000 was upon this first contract, and not upon any extension.

A. No, sir, not at all. This letter was written by myself, dated Bristol, Aug. 14, '61. (Reads letter II.)

(Copy.)

BRISTOL, *Aug. 14th*, 1861.

J. B. ANTHONY, Esq., *Treasurer, Providence.*

MY DEAR SIR: I am in receipt of yours of the 13th inst.,
47 and note its contents. The withdrawal of your company's proposition for a settlement in your letter of 2d inst., and alluded to in yours of yesterday, I cheerfully accede to. Will you be kind enough to enclose me a copy of my letter to you, dated July 11th. Your proposition being withdrawn, I need hardly say that I now withdraw my proposition to settle at $1 per musket; I cannot but think that I am legally and justly entitled to my whole claim of three dollars per musket; and I made you the very liberal offer to settle at $1, to secure a prompt and early settlement, which, for various reasons, it was very important for me to obtain.

I am, respectfully, yours,

(Signed) SAM'L NORRIS.

Just one week from that time I received this letter, dated August 21, from Mr. Anthony. (Reads letter marked I.)

(Copy.)

PROVIDENCE, *Aug. 21st*, 1861.

Mr. SAM'L NORRIS, *Bristol.*

DEAR SIR: On my return from Springfield the other day, I found your letter of the 14th inst., and noticed contents. All propositions having been withdrawn, the previous proposition made by us, not being in acknowledgment of any obligation, but for the purpose of buying our peace, and on having now ascertained how the contract was obtained, and the parties who influenced it, we are wil-
48 ling to pay such expenses only as you can show was incurred by you while in Washington, engaged upon your own business; this being a mere incidental matter.

Yours, truly,

(Signed) J. B. ANTHONY, *Treas'r.*

Q. Have you given the court and jury the entire correspondence on both sides upon this subject?

A. I have, sir.

Q. I believe you stated early in your examination, that you are now engaged in gun-making?

A. Yes, sir.

Q. Will you please state to the jury, if you have experience and knowledge in such subjects, what is the cost of making such muskets at the present time? You may take the different parts of the gun, and explain it to the jury.

A. Do you mean of a company commencing to make them?

Q. Yes, sir; state what means of knowledge you have.

A. Well, continual knowledge of various manufacturers of making these guns and parts; manufacturer of them.

Q. Have you knowledge of making these guns and the different parts?

A. Yes, sir. Do you wish me to state the gun in detail, what I thought it would cost?

Mr. Thurston. You are not going to use Mr. Norris as an expert.

Mr. Hazard. Yes, we are.

I can only say, I have made a great many contracts with all the makers of arms and parts of arms; and therefore have got a
49 knowledge of the various parts of the arms.

Q. (By Mr. Blake.) Have you at present the knowledge of the cost of making these muskets?

A. Yes, sir, of twenty different concerns. I should say the barrel would cost inside of $3 50; that is an inside price. Stock, $1.

Q. The barrel stock?

A. No, sir, the wood stock.

Q. We are now talking about the finished gun.

A. Bayonet, $1, (I include the material;) ramrod, 30 c.; guard 60 c.; bands complete, 25 c.—3 bands to the gun, (exhibits a gun;) band springs, 12 c., (3;) butt-plate, (I mention cones; I was going in order;) cones, well, 9 c., (2.) They have to furnish two cones to every musket. That is right at the bottom of the stock; I will put them down at 17 c.; lock, $1 40, complete; sight, 35 c.; stock tip, 7 c.; washers—two washers—side screw washers, 2 c., complete; tompion, ½ c.; ramrod stock, ½ c.; screws, 18 c.; appendages, 15 c. a set. I think that covers the arm.

Q. What is that total?

A. I do not know; it is inside of $9.

Q. When you speak of appendages, did you give the average appendages of the musket?

A. Yes, sir. The average of the appendages; that is an outside price.

Q. What is the practice? Is it to put out the different parts?

A. Yes, sir; most of the work, is done in that way. Various firms—distinct firms—are making distinct parts.

50 Q. Do you know that contracts are made by different firms to furnish these different things at the prices you have named?

A. No, sir; I say that is the fair cost.

Q. How do you know that that is the fair cost?

A. By constant intercourse and by thorough investigation of the cost.

Q. Are you having any of these made yourself?

A. Yes, sir.

Q. All the parts?

A. Yes, sir, almost all.

Q. To make a perfect gun?

A. Yes, sir; directly and indirectly, those that I am acting for.

Q. Do you know of any prices for which persons making these guns furnish the whole thing?

A. You are speaking of the cost of manufacture.

Q. I ask you if you know the prices which any manufacturers furnish them for?

A. Well, I answer I have contracted out 36,000, costing, without assembling, $14 26, and paying a profit of $4 or $5 for all the different parts.

Q. 36,000?

A. Yes, sir; that contract has been reduced to 25,000 now.

Q. In case you are employed to make a gun for a contractor, (the contractor having nothing to do with it,) how much does the contractor receive for his profit?

A. Well, if I understand you rightly, I am negotiating now with several parties who have no contract.

Q. You have not any contract to build 25,000 muskets?

51 A. Certainly I have, but not in the way I suggest.

Q. What I have asked, sir, if by some of these persons contracting for the gov't, have they put out the guns to make, and what is the practice—profit?

A. It is so various, sir, that it is quite difficult to answer.

Q. You have made various contracts, then, of that kind? Do you mean to say that you have made so many that it would be difficult?

A. No, sir; the prices. I have made no such contract.

Q. Haven't you with Mr. Rice?

A. Certainly.

Q. You have and you haven't. Now explain.

A. You ask what I have contracted to make a musket for; I answered $14 26.

Q. For Mr. Rice?

A. Yes, sir.

Court. Q. Profit $4 and over?

A. Yes, sir, from $4 to $5, sir; that is my estimate.

Q. (Mr. Thurston.) Do I understand you to say that you have contracted yourself with Mr. Rice?

A. I have contracted for Mr. Rice. I act as his agent. Yes, sir.

Q. (By Mr. Blake.) This Mr. Rice will have to pay $14 26?

A. Yes, sir. The contracting parties will make some $4 or $5.

Q. Then the contractors of the guns will have some twenty different parts made?

A. Yes, sir.

52 *Cross-examination of Sam'l Norris.*

Q. (By Mr. Thruston.) I will draw your attention to this latter subject as your mind is now upon it. When did you first have any connection with the arms business?

A. The first connection I had with it was when I got this contract for the Tool company.

Q. My question is intended to refer to the manufacture, rather than the procuring of the license to manufacture from the government. When was you first practically connected with the manufacture of any part of the musket?

A. In August, 1861.

Q. Your connection with the subject was when you attempted to negotiate for the contract with the department at Washington?

A. Yes, sir.

Q. Had you not some connection a little while before, in an attempt to manufacture or sell arms on foreign account?

A. Yes, sir; about a month earlier than that I had some talk with a party to get a contract, and made an attempt to negotiate for the making of those arms, but without any attempt to practically know about the matter—trying to stir up the business.

Q. Those arms were not to be used in this neighborhood, or by the gov't of the United States?

A. It was so represented to me, that they were.

53 Q. In August, 1861, then, you commenced having some connection with the manufacture of parts of the musket?

A. Yes, sir.

Q. Under the same contract you say you are working in part under now? What contract was it?

A. The contract with the Springfield armory.

Q. You mean to say that the Springfield armory, as an establishment, has entered into contract with you for furnishing of a certain number of parts of a certain number of muskets?

A. I mean to say that the superintendent of the Springfield armory, as a superintendent of that government establishment, has made a contract with me, and various contracts for the supply of parts.

Q. Well, tell what parts; instance some of them?

A. About 100,000 screwdrivers, several thousand pinchers, 90,000 or 100,000 wipers or more, 15,000 or 18,000 spring vices, 40,000 cones, 20,000 ramrods, 300,000 or 400,000 screws, Austrian, Enfield and Springfield, 20,000 or 30,000 seat springs and mainsprings of various models, 20,000 or 30,000 parts of locks, hammers and all parts, except plates and screws.

Q. Those are instances of the classes and kinds of contracts. Those parts that you have named (you have mentioned some 12 different parts) together do not constitute a musket, with the exception of buttplate and screws.

A. Only three or four are appendages of the musket.

Q. Screwdrivers and wipers are no parts of a musket?

A. No, they are appendages.

54 Q. Cones, ramrods, and screws are?

A. Yes, sir; I call one of the cones an appendage, but in my statement I did not so call it.

Q. You have no contract with the superintendent of the armory for the manufacture of the musket as a unit?

A. No, sir.

Q. Have you any contract with the gov't for the manufacture of a musket, or any number of muskets?

A. No, sir.

Q. You wish to be understood as saying that you make the various contracts you have mentioned with the superintendent for furnishing the various parts or appendages, and then go yourself and contract with somebody else, A, B, C, D, throughout the whole alphabet, to furnish you with the same articles of contract, and then turn them over to the government?

A. I start these concerns; get them out, find them out.

Q. You yourself don't carry on the business?

A. All I am responsible for is my contract to them.

Q. Now, the contract you make with the Springfield armory involves no responsibility, does it?

A. Certainly, I think it does.

Q. Let us see. We take the single article of cones. You are paid so much for each cone that passes inspection; you pay the party with whom you contract the price you agree for each cone that has passed gov't inspection. The rejected cones fall back on you, and in turn fall back on the party with whom you contracted. Then all your loss is that you do not have so many accepted cones. You pay no

55 damages, do you, to the party who makes these cones? Said contractor loses his stock and labor, if it be a case of total rejection?

A. They do.

Q. Then there is no responsibility?

A. I have found a case where I had to pay the government when they are not right.

Q. Are not all these contracts in which you pay them for the work which is received and accepted?

A. The armory contracts to. But when I have given out contracts for many thousands of dollars beyond my contract, I contract beyond the armory work. The armory work is but a part.

Q. You understand me as leaving out of the question entirely the contracts which you have made in behalf of Mr. Rice. I am drawing your attention to that one subject—your contracts with the Springfield armory for parts of which you have spoken. Do you in supplying these parts to Springfield, under your contracts, make contracts with sub-contractors, who are to be paid by you for all the guns that pass inspection and not anything else?

A. Yes, sir.

Q. Exactly; then on those contracts of which you have spoken in connection with Springfield muskets, you have no responsibility?

A. You mean with Mr. Rice.

Mr. Thurston. No, not with him, with the Springfield armory.

56 A. I think there is a responsibility; it looks so to me. I have found it so when I had to pay out money, and they did not pay for three months out there. I am responsible to the sub-contractors.

Q. So far as to indorse the government; are you any further?

A. The moment the guns pass inspection I have to pay for them, if I so make my bargain. I pay cash on inspection. I am certain of the government pay.

Q. The amount of your responsibility is whether the U. S. government pay or not after they have passed inspection?

Mr. Bradley. You are introducing an irrelevant subject.

Q. You don't pay the sub-contractors anything except for accepted work?

A. No, sir.

Q. You have spoken of another class of contracts which you have made as agent and representative of Mr. Rice?

A. Yes, sir.

Q. Where does he reside?

A. In Philadelphia.

Q. His first name?

A. John.

Q. He has a gun contract?

A. Yes, sir.

Q. That contract is now for 25,000, reduced from 36,000?

A. Yes, sir.

Q. Did you wish to be understood as saying that he had employed you to job out different parts of this musket to different manu-

57 facturers?

A. He has employed me to take charge of the building of 25,000 muskets, make all the contracts, prepare them all, or such portions of them as he did not prepare, and to assemble the arm, bring it together, deliver it to the government, be his agent—yes, sir.

Q. Then the risk and responsibility is his?

A. The risk and responsibility is his.

Q. You have made these contracts, as you state, for lock, ramrod, stock, barrel, spring, &c., when you can. In any instance under that contract has there a single musket been completed and assembled?

A. Not one.

Q. Has there a single part of any one of these muskets, on the 25,000 contract, now passed inspection?

A. No, sir; not one.

Mr. Blake. They have not been made and cannot pass inspection.

Mr. Thurston. I will examine you, Brother Blake, just as well.

Q. Now, how long have the contracts been out for the parts?

A. From December, from January of last year to the commencement of this year. I think December was the first date. I would not speak with positiveness.

Q. Of these various contracts you have made with the superin-

tendent of the armory, have you made any large deliveries under these contracts of specific parts.

A. Yes, sir; yes, sir.

Q. Are these parts for which you contracted with the Springfield armory for new work, or repairs for old work?

58 A. Both, sir, if they use them.

Q. Principally which?

A. All the '55 Springfield musket work is used indiscriminately for new in the field with the '42, or for repairs; the Enfield and Austrian for repairs.

Q. Which were they; principally for the old or the new?

A. I think most of my work is for the '55 musket, the present model, and those parts are for consumption in the armory, or to go out as spare parts, I cannot say which. They are nominally for spare parts to go out into the field, and those used for muskets just the same as any other parts. Each part fits every other musket; they are duplicates.

Q. Do you know what proportion of them are used in new work?

A. I do not, sir; as it happens. They may be short of some parts.

Q. State such classes of material as you have delivered relating to the parts of the musket, under these contracts, with the superintendent of the armory.

A. I have delivered almost all the parts of the lock; for instance, say the plate and the screws, I have delivered about 20,000 hammers, 10,000 or 15,000 main springs.

(Objection made by Mr. Hazard.)

Mr. Payne. I understand that a man may be qualified as an expert, but the weight of his testimony depends upon the extent of his qualification as an expert. I want to know how far Mr. Norris's in-

59 formation goes.

Court. Here comes the cross examination. You put in the direct examination upon this particular point. Now, he may, in his cross-examination, put in questions which you made during his direct examination.

Mr. Payne. We don't deny that he is an expert.

Q. You have contracted for parts; also giving the aggregate of the parts of the musket at $14 26, under the Rice contract, and also have stated that the true cost at a fair price is about $19 21, allowing the difference between the two as a profit to the parties making the specific parts.

A. Yes, sir.

Q. As you have made these contracts where the aggregate is $14 26, on what part of the musket is the excess of price over and above the price you have named in your first list?

A. I will give you the prices, if you wish:

Barrel	$4 75	Sight	$0 50
Stock	2 30	Washers	03
Lock	2 00	Band spring	18
Bayonet	1 83	Butt plate	25

Ramrod	$0 37	Stock tip	$0 10
Guard	1 00	Tompion	$\frac{7}{10}$
Bands	38	Screws	17
Cones	11	Appendages, ramrod stock; it may vary $\frac{1}{10}$	$28\frac{8}{10}$

Q. You have also said that no one of the sub-contractors under this contract have made any deliveries?

A. Some of them are prepared to make deliveries, as it is impossible to obtain inspectors till the whole arm is delivered, be-
60 cause the government is so short of inspectors. We have none whatever.

Q. None have passed inspection?

A. No, sir.

Q. How widely separated from each other are these sub-contractors?

A. Philadelphia and Taunton are the remote points.

Q. You have been examined as an expert, do you know anything of the test of inspection applied to the government musket?

A. I know something about the parts that I have had to do with, sir.

Q. You have never inspected a musket, I suppose?

A. No, sir.

Q. From your acquaintance with all these various parties, contractors, and others upon this subject, do you know of a single instance where the parts of a musket have ever been assembled together successfully, as a matter of fact, under any of these contracts made by different contracting parties?

A. I do. Yes, sir; one or two I know; that is, I am told so by the parties themselves. I have not seen the musket.

Q. I did not know but you had had some personal knowledge derived from your opportunities of information and examination, and knew the fact aside from being told.

A. I have never seen the muskets that have been assembled. There have been muskets assembled.

Q. Can you state under what contracts, who were the holders, and who made the deliveries?

61 A. No one has made deliveries to my knowledge. No one. You asked if an arm had been assembled, and I answered yes.

Q. I asked if, in a single instance, there had been an arm under any one of these contracts, where the parts had been made by different individuals; where the parts had been assembled together, and successfully passed inspection, successfully assembled; where the parts had been brought together to make a complete gun. I mean successfully assembled under the contract, so as to be accepted.

Mr. Thurston. The standard, may it please your honor, is not a perfect musket. You may make a never so perfect musket, and it does not follow that the government is going to accept it. It must be perfect according to an abstract idea, which idea is the standard by the Springfield armory. It must be an arm, any part of which is interchangeable with every other arm.

Q. (By Mr. Thurston.) You know now to what my queston refers.

Has there been to your knowledge a single instance of an arm being successfully assembled, and received by the government?

A. No, sir. Not one, and never will be. I speak of all makers of arms, whether made under one roof or otherwise.

Q. In your acquaintance with the business, can you state to this jury in how many different places, and in what number of times the test gauges are applied to the different parts?

A. I cannot.

62 Q. Can you state whether it is 100 times or 25 times?

A. No, sir.

Q. You have never seen the government inspect a gun; but in order to be acquainted with the subject, you are obliged to know, are you not, where the gauges are to be applied, in order to see whether the parts meet the parts, so as to stand the test?

A. You must know more than I pretend to know about it.

Q. Do you mean to say that you have no idea how many times the gauges are applied to the different parts of the musket?

A. I don't know.

Q. Can you tell whether it is 100 or 2,500 times?

Mr. Thurston. I will state what the object of this question is under the direction of the court. I propose to show, and shall have no difficulty in showing by every witness examined who knows anything about the subject, that it is a matter of absolute impossibility to make a musket in different parts of the country, and have it assembled together to stand the test of the Springfield armory. It never has been done since the world began, because it involves conditions, which in the nature of things, though theoretically possible, are practically impossible; and from numerous instances we shall have occasion to present to your honor, the conclusion is precisely this: the gentlemen have taken up some time in endeavoring to prove by this witness that the cost to make a musket was a certain sum.

63 You can make an instrument looking like a musket, but your honor will remember that no musket has ever made, and will not be, up to that standard which the law requires. Now it is put before the jury for the purpose of showing the advantages and profit which the company will derive from this contract, where an arm can be made for $10, at the outside for $14, for which they will receive $20; and that, therefore, they receive a benefit in the shape of a profit of $6, which is to swell, in the opinion of the pl'ff, the amount of compensation he is to receive. I propose to show by him, and will show by him, and have shown already, to a certain extent, that in every instance where a gun is made it has to pass through hundreds of tests, and as many different portions of it as there are divisions in the thing itself, and every one of these articles. If he was familiar with this subject, it has a double bearing upon his knowledge, as upon the question of cheapness, from which they can be made. It would appear that every part of that musket has to be placed upon an instrument filed, shaped, and adapted for the purpose, which shall test its exact size, and with which it must perfectly correspond; and if there is a variation of $\frac{3}{1000}$ of an inch, which is the

largest in any instance allowed, and $\frac{1}{1000}$ the smallest, it is absolutely rejected, although absolutely perfect, as it is regarded as a unit. And it must be perfect in respect of its being interchangeable with
64 every other arm, and every part of that arm with every other musket made by that concern. Now, carrying in view this idea, in no single instance, has any one of the parties to these contracts made a delivery which has been accepted under the process which the plaintiff has named here. And add to it the fact that that test is applied, which I have referred to, and which this witness, if he was familiar with the subject, would be able to describe, is of the greatest significance in determining what will be the cost of the arm itself. It is a part of our case that on the contract for 25,000 muskets with a party who began as this party has been obliged to do, and procure machinery, and adapt its tools to secure the end in view, cannot be done without accompanying that enterprise with an absolute loss of $100,000. This contract, instead of yielding them a profit of $6 per musket, as the testimony now before the jury would lead to suppose, actually involves a loss, an absolute loss, which this company sustain from performing this contract. It is in preparing the way for that that we are going to take all the necessary time this will require. I want to find out the reason why this expenditure must be so much, and the loss so great.

Mr. Blake. We see it is original testimony; we understand it now.

Q. You cannot tell whether the gauges were applied this number of times? You have seen the gauges?

A. Some of them.

65 Q. Did you ever see all the gauges that belong to a musket?

A. I have not.

Q. How many sets of standard gauges are there in existence?

A. I do not know.

Q. Ought you not to know that there is but one?

A. I do not know; no, sir.

Q. Have you not been informed from Springfield armory that there is but one standard gauge in existence?

A. No, sir, I have not.

Q. When you make your contracts for these individuals, Mr. Rice and others, do they furnish their own gauges at your own expense, or does the gov't furnish them?

A. (With hesitation.) We are obliged. The gov't furnishes the gauges. These questions have not been fully determined, from the fact that the gov't are uncertain.

Q. Has the gov't in a single instance to a single party furnished a gauge to work by?

A. No, sir; the gauges to inspect the work by is all I mean.

Q. If the work must pass a gauge for inspection, it must be made to the same description of gauge previously, must it not?

A. Yes, sir.

Q. Let me ask you, when parties get gauges to work by, do you furnish them?

A. No, sir, they make their own, and the gov't aid them all they can.

Q. With the exception of your relation on the Rice contract, is there any other contract with which you are connected, ex-
66 cepting the Springfield armory?

A. I am supplying various parties with parts.

Q. For example, holders of contracts?

A. Yes, sir.

Q. Well, who?

A. Mr. Rice, I became a contractor to him, and supply him with certain parts, and got out those to other parties.

Q. I will draw your attention to the class of subjects upon which you were examined at the outset of your testimony. I propose to begin upon those subjects involved in the direct examination. You have been inquired of by the counsel for yourself as to your previous contract. You stated that you were originally connected with parties in Bristol who started the sugar business; also engaged in mercantile business. That proved a failure, did it not?

A. I called it that; we failed, and settled off with our creditors in 16 days, and got a release.

Q. You were also largely concerned and interested in Bristol. That has been a bladder, has it not?

A. As yet it has not been profitable; the further you go into it the better you will like it.

Q. Then you went into the American horse nail business in Europe. That also exploded?

A. The prospects are fair; as yet it has not been a success.

Q. You came back then to this country. Did you spend consecutively how many months in Europe at one time together?
67 A. Six or eight months together; about six months I think was the longest time.

Q. It was suggested by the other side that you had established business successfully, meaning the horse nail business, within this six months?

A. Not within that time, but previously.

Q. Was the nail business the last business with which you were concerned in Europe?

A. These agencies for iron in various forms, chains, &c.

Q. You were employed by English houses to sell their wares?

A. Yes, sir, their products in this country.

Q. You do not mean to say you were engaged in the manufacturing yourself of nails, but were a middle man for other parties?

A. I was engaged in the manufacture of nails; my interest is still there in the machinery.

Q. Had you when you came back to this country any business connections in Europe beyond the agencies of which you spoke?

A. The same as I have now, the nail business in the machinery of the business patents, and a similar interest in Belgium and Holland, belonging to that same class of subjects.

Q. When was it that you returned?

A. I think the last time I came home was in 1860; I think in June, 1860.

Q. The year before our troubles started?

A. Yes, sir.

Q. Where was that gun made you hold in your hand?

68 A. At the Springfield armory.

Q. (Showing another musket with fixed bayonet.) Does that look like a Springfield arm?

A. It looks like it; I do not say it will pass inspection.

Q. Show me a single place where it will not pass inspection, being familiar with this subject, and examined as an expert?

A. It would be impossible for me or any other person without the gauges, unless there be defects in the exterior.

Q. Can you examine it as a whole, and state? That is one of your duties as an expert.

A. I do not profess to be an expert.

Q. It looks like a perfect arm, does it not?

A. Yes, sir.

Mr. Thurston. We shall have occasion to show that not a part of the material, not the smallest screw pin that goes to compose this musket, but is made up of rejected parts from the Springfield armory.

SECOND DAY, *Friday, July* 11.

Cross-examination of Mr. Norris resumed.

Q. (By Mr. Thurston.) You stated that you went to Washington as early as March, 1861. I presume you meant to state that you were there on other business?

A. I was looking up business for various parties.

Q. Do you mean to include with the class of business you were looking up that you were doing anything for these defendants?

A. Directly, no, sir.

69 Q. You seem to distinguish between directly and indirectly. Were you in their employ in any way or shape at that time?

A. No, sir.

Q. When you say not directly, do you mean to imply that indirectly you were picking up information and acquiring education in these matters which you should use?

A. Certainly.

Q. When was your first interview with Mr. Anthony upon this subject? Was it any earlier than the 1st of June, 1861?

A. Upon this particular subject it may have been the latter part of May; it was about that time.

Q. You stated yesterday that it was about the 1st of June. Do you mean to make that statement now?

A. The latter part of May, or the 1st of June.

Q. Did you go to him, or did he come to you?

A. I went to him.

Q. Called upon him at the works?

A. I called upon him at his office.

Q. That was at the works, I suppose?

A. Yes, sir.

Q. Did Mr. Anthony seem very anxious about going into the business at that time? (Mr. Blake objects.) Did Mr. Anthony say or do anything which indicated a great desire to get the contract?

A. He appeared very earnest in the matter.

Q. He was not lukewarm at this time?

A. I did not so consider him.

Q. Had he made any investigation at that time upon the subject of arms contracts, that you are aware of?

70 A. He had.

Q. With reference to the Springfield arm?

A. No, sir; with reference to the foreign arm. It was so stated.

Q. What was the trade name of that arm?

A. I do not know, sir.

Q. I mean the nation from which came the one upon which he had made examination?

A. I think it was the Austrian musket. It was never stated to me. I do not know whether it was the Birmingham musket.

Q. State how you know he was engaged upon it.

A. Because we had had some conversation about his taking the contract for the building.

Q. Had he relinquished any idea about it?

A. I thought not; he still hoped.

Q. (By Mr. Blake.) Did he have a contract for making foreign arms?

A. Yes; I was negotiating.

Q. (By Mr. Thurston.) Do you mean to say you had such a contract?

A. No, sir; I was negotiating.

Q. You never took one, did you?

A. No, sir.

Q. Well, you had this conversation with Mr. Anthony on the 1st of June relative to this subject, of which you spoke yesterday; and then, soon after, you started for Washington. Do you remember the day on which you started?

A. I think I started from R. I. on the 4th of June, as soon as I could get ready.

71 Q. On the way, you stopped in New York, as you stated yesterday?

A. Yes; on the 5th of June.

Q. There you saw Mr. Grinnell?

A. Yes, sir.

Q. And applied for and obtained the letter which you read yesterday?

A. Yes, sir.

Q. You arrived in Washington on the 6th of June?

A. I think it was on the 6th, sir.

Q. What connection or relation is Mr. Moses H. Grinnell to you?

A. My brother married his niece.

Q. You arrived in Washington on the 6th of June, and remained there how long? You returned on the 2d you stated yesterday.

A. I went to see Mr. Anthony on the 2d of July.

Q. Between the 6th of June and the 2d of July, what time did you spend in Washington?

A. Two-thirds of the time.

Q. Have you any memoranda to give the exact number of days?

A. I have not; should say I spent $\frac{2}{3}$ of the time.

Q. Immediately on your arrival in Washington, you went to see Gen. Ripley and Sec'y Cameron?

A. I called first at the War Dep't, and finding the Secretary thronged, went next to Gen. Ripley.

Q. During the first week that you were there, did you succeed in getting any interview with the Secretary at all?

A. Yes, sir.

Q. Between the 6th and the 13th?

72 A. Yes, sir.

Q. And that is where you presented your letter?

A. Yes, sir; when I was referred by the Secretary to Gen. Ripley.

Q. Was not the entire substance of that interview a reference of Gen. Cameron to Gen. Ripley?

A. We talked about arms so far as this: He asked what I desired. I told him a contract for arms. Think very likely I mentioned the name of the company for which I desired a contract. He told me that business was under the charge of Gen. Ripley. Told me to go there and talk to him about it.

Q. In other words, referred you to him?

A. He did.

Q. To make short work, you made no headway?

A. I think I took the first step that could be taken.

Q. Which was to get turned over to somebody else? You don't mean to say you made any other advance than that of being turned over to somebody else?

A. To go to the head of the department on the business which I went to obtain.

Q. Following you up, sir, in the reference which was given to you to Gen. Ripley, you found that Gen. Ripley wasn't inclined to give out any contracts beyond those which the Secretary had already intimated.

A. I found he was quite unprepared to act with anybody, as the Secretary had directed him to make a report; he could not do

73 anything (for I asked him)—could not do anything for anybody until that report was made. He treated me very courteously.

Q. Up to the time I am inquiring about, your efforts to obtain a contract for the Tool Company were without any show of result?

A. I thought they were progressing very favorably.

Q. You took encouragement from a small matter, then?

A. We have to in Washington.

Q. Were you engaged exclusively in this business of getting contracts in Washington?

A. No, sir; I was not.

Q. What other minor matters engaged your attention?

A. Why, everything generally. I was trying to serve one or two friends; I was trying to serve myself in business.

Q. Let us particularize. Were you after an office, as paymaster in the United States army, for yourself?

A. I do not think I was at that time; I was afterwards. I am not quite certain whether it was at that time or the next.

Q. Are you entirely clear that you did not conceive that idea at that time, and take some active steps?

A. I am not clear. I think I did at that time or the next. I did take steps towards that.

Q. Solicit the influence of senators, representatives in Congress?

A. I did of senators.

Q. Did you also solicit the influence of Mrs. President Lincoln?

A. I talked with her about it.

Q. Was that the only person from whom you had any charge
74 at this time? You wanted an office for some of your friends, did you not? D d you not want the appointment of consul for one of your brothers?

A. I did want the appointment of my brother as consul to Glasgow, Scotland.

Q. Was there anything for any other of your family that you would have been willing to have accepted on solicitation? Were you not making application for your father for getting the office of postmaster in Bristol?

A. No, sir. I think he had the appointment at that time. He had the appointment then or soon after.

Q. You then did not apply yourself on that subject?

A. No, sir.

Q. Others were attending to that. Was there any other friend, or member of your family, you were serving in a similar direction?

A. No, sir.

Q. Had you any little matters of business on hand, in the contract line, that you were attending to also at that time, other than for the Prov. Tool Co.?

A. I was, I think, at that time endeavoring to do something for some two Providence concerns.

Q. Small matters, or matters of some little consequence?

A. Matters of some importance; not of great magnitude compared with these transactions.

Q. Was you representing Messrs. Thurston, Gardner & Co., of Providence, for the purpose of procuring a contract for engines for six gunboats?

A. Mr. Henry W. Gardner; not Thurston, Gardner & Co.

Q. That was a $36,000 job, was it not?

75 A. I have forgotten. It was a $36,000 or $40,000. I cannot answer that question.

Q. Were you taking active steps to secure that contract for Henry W. Gardner?

A. I was doing what I could to serve him in their business.

Q. Did you hold a power of attorney from Mr. Gardner authorizing you to act in that behalf?

A. I did, sir.

Q. Did you correspond with him frequently?

A. I think I wrote him two or three letters.

Q. Did you disclose the plan of operations you had in view, and the arrangements you had made in the bureau?

Mr. Blake. If there is any relevancy we will let this go in. He has disclosed that he was looking up business and making acquaintances. If all the details must be gone into I have no objections, if they have any relevancy to this suit.

The Court. I suppose it is to discover a *quantum meruit* as to the time he was employed by these def'ts, and therefore it is proper to ask how far he was employed by other parties.

Mr. Blake. I see the bearing of what your honor suggests. He told Mr. Gardner certain plans and means of pursuing, which has nothing to do with the time.

Mr. Thurston. We have carefully endeavored to figure up the service this gentleman has given us. I calculate it as 24 minutes. We want to eliminate his various duties to show that he could not
76 have been employed for us to render service for us.

Q. As refreshing your recollection upon the amount of time you was spending upon this contract of Mr. Gardner's, I drew your attention to your letters to him on that subject. Did you not disclose to him, in those letters, the various steps you were taking in his behalf?

A. I do not remember the contents of these letters. I only told him what he knew at the time concerning his business there.

Q. Irrespective of the contents of these letters, in point of fact, did you make arrangements for the purpose of securing that contract by bringing influence to bear on the subject personally, or otherwise, to occupy your time upon that matter?

A. Influence? Well, I think I did. And yet I think the word influence would be hardly proper to use.

Q. Whittle off either end of it and tone it down. Well, you say you bestirred yourself upon that matter of Thurston & Gardner's contract.

A. I did, sir.

Q. What period of time did that business cover to your best recollection at present?

A. I was occupied for them, I think, portions of 4, 5, or 6 days, perhaps an hour a day, having interviews with officials having this matter in charge.

Q. Interviews with the heads of bureaus, I suppose; interviews with the Sec'y of the Navy?

A. Yes, sir.

Q. And that, you think, took portions of 4 or 5 days?
77 A. Yes, sir, about an hour a day.

Q. Was there another little job of that character you was interested for, for the Hope Iron Foundry, Providence?

A. Yes, sir.

Q. Was that a gunboat engine, sir?

A. It was, sir, I believe.

Q. Did you do substantially the same thing for the Hope Iron Foundry that you did for Henry W. Gardner, for securing their desires?

A. At the same time, they were one and the same thing.

Q. Do you mean to say you ground both of these grists at once?

A. Both at the same time.

Q. Neither of these contracts were obtained, sir?

A. They were not.

Q. Was there also another small matter for Joseph P. Manton individually, that you were casting about for?

A. I was making inquiries for him concerning a windlass.

Q. Does that express the exact view of it?

A. Mr. Manton was owner of a windlass patent; I was informing myself and seeing if I could do him any good with the department.

Q. That is an indefinite form of expression; what do you mean?

A. I was talking about his windlass with one or two officials, perhaps three.

Q. Do you mean by that mode of expression to say that you were endeavoring to get his windlass to be adopted by the navy,

78 at a price to be paid by the government?

A. I was.

Q. You were to receive a specified commission upon each windlass?

A. I was to receive a windlass.

Q. If there are any other small matters of $10,000 or $15,000 that I have not mentioned, I would be glad to have you refer to them?

A. That embraces all as far as I remember.

Q. You were about two-thirds of the time, between the 6th of June and the 3d of July, in Washington. Are you able to give the number of days with this refreshment of your memory?

A. I am not.

Q. Can you give the date of your return?

A. I cannot.

Q. Are you in the habit of keeping a daily diary or memorandum?

A. I am not.

Q. At this time had you any means of prosecuting any business independently yourself? Were you in any situation to carry on business on your own account? Did you possess capital?

A. I had credit at the time.

Q. Had you capital as distinct from credit?

A. I had not capital, sir, that was available; I had property, but not capital.

Q. Mr. Grinnell did not understand when you offered, that this was the business upon which you were to engage?

A. No, sir; I told him distinctly, the Prov. Tool Company.

79 Q. You have referred in the course of your examination

yesterday, to the letter which you had from Mrs. Lincoln. Have you that letter, or a copy?

A. I have not, sir.

Q. What was the nature of the contents of that letter? a letter of commendation or recommendation with a view to business of this kind? Where is the letter now?

A. I do not know.

Q. You were able to produce the letter Moses H. Grinnell wrote; is not the original on the same file with the other?

A. It is not, sir; I was so informed at the War Dep't.

Q. Then you made search for it for the purpose of getting a copy?

A. I did, sir.

Q. You do not know then where it is? It may be set down as lost?

A. They told me it was lost or destroyed.

Q. Give the contents of the letter as far as you are able?

A. I cannot give them.

Q. That subject admits of a difference in degree; cannot you give us a statement of the contents, as near as you are able to? I want to know whether it was a letter of the largest commendation; whether it was a letter that was moderately stating your wishes?

A. Well, sir, I never read the letter; the note was sealed. Mrs. Lincoln asked me if I read it; I said, "No, it was sealed." She then told me the contents of it.

80 Q. What length of time would you say the interview was between Sec'y Cameron and yourself, when you presented this letter? Did it exceed three minutes?

A. I should say it was three minutes, a long time for Washington; one minute was the usual length of time assigned for a visit. I had no further business after being referred to Gen. Ripley.

Q. You said yesterday that the result of the interview with Gen. Ripley was to find out that no contract was to be issued for a larger number of arms than 25,000?

A. The result of my various interviews was, that on the last I had with Gen. Ripley, he stated that he had recommended the Sec'y of War to give contracts for 25,000. You will see in his report that he recommends four contracts of 25,000.

Q. I want to know whether at the last interview—the result of the various interviews—the sum and substance of them was to that effect?

A. I traced along from time to time; knew when he delivered his report to the Sec'y, and knew the whole thing as it progressed, and then he told me that, "I have recommended the Sec'y giving out contracts of 25,000."

Q. You returned about that time to Rhode Island?

A. I did, sir.

Q. How long did you remain in R. Island, with reference to fixing the time, before you went to see Mr. Anthony?

A. I cannot say; a few days; as soon as I got ready to go.

81 Q. At the interview with Mr. Anthony you stated that he was willing to take a contract for 25,000?

A. After I had made my statement to him—yes, sir; that he would be very glad to have the contract for 25,000.

Q. He wanted, however, and required that the gov't should pay a larger price?

A. That on account of the quantity, it being worth more to make a smaller than a larger quantity.

Q. You professed to be able to give Mr. Anthony assistance relative to the nature of the machinery he would require at the various interviews?

A. No, sir, not prior to that; afterwards, I think.

Q. Then, up to the period of time of which I am now speaking, you had said nothing about your capacity to give him machinery?

A. I am quite certain I did not.

Q. As an inducement to Mr. Anthony to go into this business, speaking of it in conversation with him, do you now say that you did not, among other things, say that you could assist him in machinery up to this time? Did you, at any latter time, give him estimates, or make estimates of what the machinery necessary to construct these muskets would cost?

A. I never gave him estimates; I may have said in conversation—I do not know—I do not remember; I think very likely I did—said what I had heard it would cost.

82 Q. If you have any recollection on the subject, state what idea did you convey to him, from your knowledge on this subject, of the expenditure that would be involved.

A. I have no remembrance whatever. I had no knowledge of the business of manufacturing arms.

Q. Did you represent to Mr. Anthony at this time, or the contrary, that you had no knowledge?

A. I made no remark about it, sir.

Q. What was the language used by Mr. Anthony relative to your compensation, on the 2d of July, after you had informed him that contracts for only 25,000 would be issued? You did not state yesterday that he said he would give you all over $17. I want to know.

A. That was the distinct, plain understanding, on the 2d of July.

Q. State the exact conversation between the two—yourself and Mr. Anthony.

A. I said to Mr. Anthony that the chief of ordnance had informed me that he had advised the Sec'y to give out contracts in quantities of 25,000 each. I asked him if he would like such a contract. He said he would, if the price corresponded, or was sufficient—something like that. I asked him what price. He answered, I do not know. Said I, "Suppose I can get $17?" Said he, "Take it at once; do not hesitate." There was a plain and distinct understanding.

Q. Was that all that was said?

A. In regard to that, I think it was, sir. This conversation hinged upon the other conversation.

83 Q. According to your idea?

A. Yes, sir; and according to Mr. Anthony's too.

Q. What were the words used in the former conversation, from the

2d of June to the 1st of July? What conversation was used, referring one to the other?

A. It was part and parcel of the same conversation. In one sense of the word, it was one.

Q. You stated that one was on the 1st of June, or the latter part of May, the other on the 2d of July; if there was any reference made to a former conversation, by which they were hinged together, state the words of reference, so that we all may see whether they are connected together or not.

A. The conversation on the 1st of June, or thereabouts, was that Mr. Anthony desired a contract.

Q. I am asking the words of reference by which you connected them together?

A. I cannot give you the words, but it was as clear as daylight—the connexion.

Q. You have mentioned, in your direct examination, that you had an introduction to Sec'y Cameron as early as March, 1861, on one occasion in Baltimore, before any of these matters took place between the Tool Company and y'rself. Was that introduction anything more than a passing introduction to yourself, at the same time with a great many other persons?

A. There was no one being introduced at that time; it was not with the crowd.

Q. What was the character of the interview?

84 A. It was short and agreeable. I was introduced by a gentleman who knew him very well.

Q. You did not broach the subject of your wishes in regard to arms at that time?

A. No, sir; I did not. I did not want to commence too suddenly.

Q. We won't inquire in regard to the interview with the great magician Thurlow Weed, or with Gen'l James, &c. You arrived at Washington about July 4th; after the parade was over of the troops, went up to see Gen. Ripley?

A. I did, sir. Gen. Ripley, by the way, I suppose, was chief of ordnance, head of that department, and has charge of the purchasing of arms, acting under the Sec'y of War. (To Mr. Blake:) He was superintendent of the Springfield armory in 1848.

Q. The interview was a long one. How long?

A. I should think nearly half an hour; I was probably there quite that time, perhaps longer; cannot say with certainty.

Q. You gathered from what he told you then, according to your testimony yesterday, the information that four contracts had been ordered to issue in 25,000 each, to the parties who accepted and took them?

A. The parties that I named yesterday; at that time I did not know the parties.

Q. But he mentioned four parties, their names you did not know?

A. He said, "The Sec'y has decided to give out four contracts of 25,000 each, and has about decided to whom to give those contracts."

85 Q. You understood by these terms the extent of the contracting would be about 100,000 muskets?

A. Had already determined to be 100,000.

Q. Then you went on and stated the capacity of the Tool Company to do their work well and faithfully?

A. Yes, sir.

Q. And the correspondence that, upon the strength of the recommendation he established, recommended an additional contract. Did he ever recommend, to your knowledge, any such additional contract?

A. I think he did; not to my positive knowledge.

Q. I asked for your knowledge.

A. The Sec'y was at Fortress Monroe; he said he would see me immediately on his return.

Q. No result of that kind ever took place? There was no contract issued? There was no extra contract issued?

A. Not at that time.

Q. This 25,000 the Tool Company did get was one of that four?

A. Yes, sir; one of that four.

Q. The next thing in order of time that you stated yesterday, was that you had an interview with Senators Simmons and Anthony as to the propriety of going to the War Dep't; had you had any interview with the senators upon this subject before that?

A. Not before that time; not before July 4th.

Q. Do you mean to say now that you went to see them on July 4th? I got it July yesterday.

A. In the mean time, I called upon both senators, I stated
86 yesterday, and had told them what I wanted, viz: To get the Providence Tool Company a contract. Mr. Simmons was engaged to go to the caucus on one or two of these occasions. With Mr. Anthony, I do not remember the result of the interview: it was pleasant and agreeable, and, I suppose, he was willing to go with me.

Q. It is correct to say that the first interview with the senators upon this subject was between the 4th and the 11th of July?

A. I think it is, sir; upon this subject.

Q. The result of that interview was, between the senators, that they went to the War Dep't with you on the 11th of July?

A. On the 11th of July.

Q. You have stated how Sec'y Cameron was not in at the time you called, that you started to leave with the senators, when he drove up in his carriage, and then the interview of a few minutes took place; that was on the sidewalk, or the corridor, or where?

A. On the sidewalk, almost directly in front of the front door.

Q. It was of how many seconds duration, or minutes, to the best of your judgment?

A. Well, it was inside of three minutes, I should think.

Q. About a 2′ 40″ interview?

A. I should think about a 2′ 40″ interview.

(Counsel. Perhaps a 2′ 21½″.)

Q. What did you say to the Sec'y relative to this subject of discussion, at this curbstone interview?

87 A. I think I only expressed my thanks to him for his words of encouragement in the matter. I think, very likely, I spoke of the advantages of this company, but I will not state that as a certainty.

Q. The interview occupied three minutes. Senator Simmons said something; Senator Anthony said something; Sec'y Cameron said something; and you said something?

Mr. Blake. He says possibly he may have spoken of the advantages of this company.

Q. Do you mean to say that before the immediate declaration, as you stated yesterday of Sec'y Cameron, "You shall have it," in reply to the language of Senator Anthony, do you mean to say that before that, you brought any argument to bear upon this subject to Sec'y Cameron, that would tend to induce this result?

Mr. Hazard. You ought not to make these statements; you know that this reply was not responsive to Sec'y Cameron's remarks.

Mr. Payne. That depends upon the evidence.

Mr. Hazard. You shall not jump from last November until now, if I can help it.

The Court. We are now cross-examining the witness.

Mr. Thurston. I think I asked you whether the language of Sec'y Cameron, following immediately upon the language of Senator Anthony, or I will add, if I did not before, of Senator Simmons, as there is no doubt, was preceded by any argument or statement from yourself.

88 A. I think it is possible I did use an argument in favor of this company; I do not swear that I did.

Q. What is your recollection, I will ask you, as there has been other testimony, or will be upon that subject, what is your recollection of the first person who commenced the interview with Sec'y Cameron, at this time? Was it Senator Simmons or Senator Anthony?

A. I think it was a simultaneous action on the part of both; I think they both presented me; I think that was the course taken, and Senator Simmons stated my mission, namely: to get a contract for the Prov. Tool Co., or a Rhode Island company—"Mr. Norris desires a contract for guns." Then Senator Anthony spoke commendatory of the company—its responsibility.

Q. Then what did the Sec'y reply to what Senators Anthony and Simmons had said?

A. The Sec'y replied to what had been said, "It is just what we want; we want Mr. Norris, and if you would only make them fast enough, I would give you another contract and a larger one."

Q. That terminated the interview? Was there anything different from what you stated yesterday?

A. Nothing as I know. He said, "You know Gen'l Ripley; go over to him and tell him what you want."

Q. The two senators and yourself went over to Gen'l Ripley, as you stated yesterday?

A. We did.

Q. You found when you went to Gen'l Ripley's, that he was not inclined to do anything about it, until he had seen the Sec'y?

89 A. He said, I must first see the Sec'y, and appointed next day to call.

Q. You went the next day and found he had done nothing; had not seen the Sec'y; went again at noon, and found he had still not seen the Sec'y; did you go a third time?

A. I did; and found he had not seen the Sec'y.

Mr. Thurston. From beginning to end?

Mr. Blake, interrupting. Stop one moment there, sir.

Q. Up to this time, Mr. Norris, did you not find that Gen. Ripley's influence, so far as he was exerting it, was against the issuing of this contract in the direction which you wished, so far as he exercised any influence?

A. I cannot say that, sir.

Q. Was he not exact in all the interviews you had with him in his declaration of the previous arrangement that had been made, that would exhaust these four contracts by distribution?

A. He said he would recommend an additional contract.

Q. When we have passed to the interviews, after the interview when you came with the senators, did he not refer to the fact that instructions had been given him that he should be satisfied himself, but a different disposition ——

A. No, sir; not on that day; he would see the Sec'y, and he did it; he desired me to call the next morning.

Q. But he did not see the Secretary?

A. I think he did; he says he did.

Q. On that day?

90 A. I don't know when.

Q. Are you aware whether he took the trouble to go to the Sec'y, or not, to find out whether the Tool Company were to have it?

A. Only what he says that he did; that he had had an interview.

Q. You did not learn, in short, that unless Senator Anthony or Senator Simmons, some one or both, went again to the Sec'y, that there was no chance of this contract being issued?

A. I did learn upon Saturday morning that the Sec'y had directed the chief of ordnance to write or telegraph to parties in Ohio; that he had determined the three first contracts, and that he had directed the chief of ordnance the afternoon previous to write or telegraph to parties in Ohio before talking with ——

Q. That made the question of issuing to parties in R. Island very doubtful to you?

A. I was very anxious indeed.

Q. Do you not know as a matter of fact from the declaration that Gen. Ripley made to you, and other sources, that that change in the direction of these four contracts from what Sec'y Cameron had intimated on the sidewalk, was brought about by Gen. Ripley's influence; that he was so much in favor of those parties receiving a contract over the parties here, that the change was made?

A. No, sir, I do not; it never occurred to me before.

91 Q. The question I asked was this: whether up to this time—the interview on the curbstone—Sec'y Cameron gave encouragement that the contract would be issued to the Prov. Tool Co.; in fact, directly ordered and says, "Go over to Gen. Ripley." They go over to Gen. Ripley's; he says, from the testimony, that he must see the Sec'y; he found they had not seen the Sec'y, or at a later period, they discovered that he had been directed to write to these parties, to see whether they would like to take it or not. That would modify the taking of it by parties here, if it was contingent. I want to inquire whether that change in the direction of the Secretary, he directed Gen. Ripley to do one thing and say another thing to Senator Simmons; whether that change was not brought about by the direct influence of Gen. Ripley, chief of ordnance?

A. I do not think so; certainly not.

Q. It was on or about this day that you went out and saw Mr. Pearce, connected with the Tool Company, out to Camp Sprague?

A. The next day after the interview with Senators Simmons and Anthony, the 12th.

Q. You then went the next morning and saw Mr. Pearce at his room in Willard's Hotel?

A. I did.

Q. You then expressed the difficulties in the way of this contract; that it was vitally important to move instantly, as they might correspond by telegraph instantly, before we could return it. It is hardly necessary to say that these parties in Ohio would accept

92 the contract, if they were written or telegraphed to?

A. I did not want to leave them the opportunity; I feared they would accept it.

Q. It had already been previously offered to these same parties, as you understood it?

A. I did not know anything about it; I had the impression that it had, yet I do not know.

Q. Were they applicants for one of the contracts?

A. I do not know.

Q. You succeeded in getting Mr. Pearce to go to the Senate chamber; that was the next step?

A. Yes, sir.

Q. Then Senator Simmons was in the caucus?

A. He was called out; I sent in word that Mr. Pearce and Mr. Norris were outside and desired to see him.

Q. Are you exact in that statement? Did you not send word to the senator that Mr. Pearce wanted to see him?

A. No, sir; I said Mr. Pearce and Mr. Norris were outside and desired to see him.

Q. You then took a carriage; the three went to the War Dep't, and saw Sec'y Cameron?

A. No, sir; the way up I asked Mr. Pearce if he would go with us to the War Dep't; Mr. Pearce waited at Willard's Hotel, and Mr. Simmons and I went up.

Q. You two went into the room, when he was at leisure; had the interview you described yesterday; the result was a written letter or note?

A. Yes, sir; a written note to Gen. Ripley.

93 Q. (By Mr. Blake.) You say you asked, on the way to the Capitol to the office of the Secretary of War—asked Mr. Pearce if he would go with you. Was the hotel on the way between the Capitol, where you found Senator Simmons, and the Secretary of War's office?

A. Yes, sir. We went right by.

Q. (By Mr. Thurston.) How long was the interview between Mr. Cameron and Senator Simmons—this where he gave a note?

A. It is hard to say. I should say not over ten minutes.

Q. Would you be willing to state under oath that it was over one minute?

A. I should not be willing to state that it was only one minute, because it was more than that. I would swear that it was more than that certainly. We could not do the amount of work that was done, writing the note and conversation. I should say that it was about ten minutes. Would not swear it was ten minutes, but about that time.

Q. You went then from there to Gen. Ripley's office; he read the note?

A. He did.

Q. He would not start from his position then; would not recognize the note as binding authority upon him?

A. No. Because the note did not mean anything.

Q. (Mr. Thurston.) Ha! ha! a politician's note?

A. It was written so peculiarly that he could not understand it. Therefore, he said, "This is not an order." "Yes," said Senator Simmons, "it is an order."

Q. Did you read the note?

A. I did. "Give Senator Simmons a duplicate of the order given his State yesterday." As there had been no order given his

94 State yesterday, he knew it was all wrong. So, of course, the Gen'l could not act upon that note.

Q. Gen. Ripley was evidently directed about to go; as he was directed no further. So he must go to see the Secretary.

A. He went to see the Sec'ry. Senator Simmons and myself went with him.

Q. Did Senator Simmons, Gen. Ripley, and the Sec'ry hold that conversation together?

A. The conversation was entirely between Gen. Ripley and Sec'ry Cameron. Mr. Cameron said, "What is it, Gen'l?" and Gen'l Ripley said, "You determined to give out four contracts, one to Colt, one to Jenckes, of Phil'a; last night you directed me to write to parties in Ohio, before talking with the Rhode Island parties." "That is right," says the Sec'ry. "What shall I do?" says Gen. Ripley. The Sec'ry said, "Give it to Rhode Island, and let Ohio go."

Q. In addition to the words, "Last night you directed me to telegraph to the Ohio parties," were these words added: "Last night

you directed me to write or telegraph to these parties urging them to take it?"

A. No, sir.

Q. These words were not used?

A. Not used.

Q. Then there was no difficulty with Gen'l Ripley? After that the contract issued?

A. Yes, sir.

Q. Now we have got up to the time through all this, through which you have passed, when the contract was issued, and you
95 have stated on your direct and cross-examination all that occurred in reference to obtaining it. Now do you mean to say before this jury, on your oath, that any recommendation of yours, or any influence of yours, in any way tended to obtain this contract; and have you not expressly stated facts showing that it came entirely from the recommendation of Senators Simmons and Anthony? Where do you base your claim upon any recommendation that you say you gave these parties or influence that you brought to bear?

A. I combine the whole together. This is the result.

Court. That, I propose, is more truly a question for the jury to decide from these facts, and a matter of argument for the counsel on both sides; hardly a proper question for this witness to determine.

Mr. Bradley. If he had not been there, it is obvious that they would not have got the contract.

Court. He applied for a contract and made use of these means in order to obtain it. I suppose you mean to say you used these means to accomplish the result?

A. I used these means to accomplish the result.

Q. Some allusion was made yesterday to the second contract which the Prov. Tool Co. have obtained. It is not in your declaration. You do not mean to say that you obtained any second contract?

A. They have had an increase of second contract that I got to 50,000.

Q. You procured none such for these gentlemen?

A. No, sir. No additional order.

96 Q. You referred in your interview to Mr. Pearce, a remark that he made as to the lukewarmness of Mr. Anthony upon this subject, that he had been dragged into it by you; and also referred to the want of energy upon this matter displayed by Mr. Pearce himself.

A. I said Mr. Pearce was lukewarm in the matter.

Q. What you mean to say is a fact?

A. At the interview in his room for instance.

Q. Was Mr. Anthony, do you mean to say, as a whole, lukewarm in this matter, or anxious to procure this contract?

A. He was very earnest in my interviews with him. I had had only two, you are aware.

Q. The correspondence that you showed to Mr. Pearce, however, gave him a different opinion. Do you mean to say there was a difference between the correspondence and the letters?

A. I mean to say that the idea expressed by Mr. Pearce was that, "You have originated this whole thing, not Mr. Anthony."

Q. You used the expression yesterday. I want to get at your true meaning. "You have had very little to encourage you in this business," after reading the letters of Mr. Anthony.

A. That was the expression yesterday. That was in the third letter I read.

Mr. Bradley. That is the expression, Mr. Pearce?

Mr. Thurston. I understand it perfectly.

Q. Did he also say, "It seems to me as if you had dragged Mr. Anthony into this business?"

97 A. Yes, sir, he did.

Q. Up to the time this contract was signed by the government, were you not endeavoring to obtain, through the aid of your friends, some compensation to be fixed for your services?

A. I endeavored to obtain, through Mr. T. D. Bowen, a written agreement to the fact of my contract.

Q. Did you state to Mr. Pearce, in Washington, on the occasion when Mr. Noyes was in the same room, and you were asked to speak freely, told to speak freely before him, that your compensation had not as yet been fixed upon?

A. I did not. I may have said it had not been written out; I may have said that. I told him what my compensation was to be.

Q. You stated that you wrote to Mr. Bowen. Is Mr. Bowen a connection of your family?

A. We married sisters.

Q. He is also interested in the company?

A. Yes, sir.

Q. Down to the very time that the contract was given out, were you not writing to him, urging him to get it fixed in writing?

A. I did, sir.

Q. Was you, as an inducement for him to bestir himself, was you offering him a compensation for so doing?

A. I do not think I did, sir.

Q. You wrote to him upon the subject.

A. I did, twice, sir.

Q. Did you telegraph to him, also, after the contract was

98 signed?

A. I did, sir.

Q. Was your language thus: "Have my compensation fixed, as named, without fail, if possible."

A. That is correct, sir.

Q. Had you personally written him that letter? (showing him a letter.)

A. The letter to T. D. Bowen, esq.? Yes, sir, I wrote it.

Q. Did you send that? (showing him another.)

A. Yes, sir, that is my writing.

Mr. Thurston. I only want to verify them, and offer them as part of the subsequent case afterwards.

Q. The contract that was issued was a duplicate of the Colt contract. Had you ever seen the Colt contract?

A. I had not.

Q. Did you know its terms?

A. Not officially. I heard by rumor that it was $20, and 1,000 for the first delivery. This information was given me by Gen'l James, and only from rumor.

Q. Do you remember when you heard what the terms of the Colt contract were?

A. I do not, sir; but I think some time between the 4th of July and the 13th of July, some time between that.

Q. Can you now state when the Colt contract was dated?

A. I think it was dated on the 6th of July; the book will show—29th page.

Q. What previous acquaintance, relative to this letter of introduction from Mrs. Lincoln—what previous acquaintance, or means of knowledge of your antecedents, had Mrs. Lincoln?

A. Her brother-in-law is an old friend of mine, sir, and for
99 many years a very intimate friend of my brother-in-law.

Q. Was it Mr. Todd?

A. No, sir. It was Charles Kellog, of Cincinnati, and his wife had visited our house—the sister of Mrs. Lincoln.

Q. That is, Mrs. Lincoln's brother-in-law was an old friend of your brother-in law?

A. Yes, sir; and Mrs. Lincoln's sister had visited our house in Bristol?

Q. Mrs. Kellog?

A. Yes, sir.

Q. One of your letters that I have drawn your attention to, is marked confidential; were there any relations between Mr. Bowen and yourself relative to this compensation you were seeking to have fixed that were not proper to be made known to the company?

A. I do not think of them. The letters were written hastily. I took no copy.

Q. Why marked confidential?

A. I do not know; it was a matter of great importance to have it fixed?

Q. Turn to the price. You say you heard from rumor what the price of the Colt contract was for arms. I will ask, did you not state to Edw'd Pearce that you did not know what the price was until after the contract was issued?

A. No, sir. I told Mr. Pearce that I did not know officially, only by rumor; that was my remark.

Q. You do mean to state that there was nothing done by you, or said by you, or anybody else as to fixing the price?

100 A. The price was fixed by General Ripley with Col. Colt. He recognizes four contracts at liberal price, the cost of the arm being only $12; but he advises giving liberal prices, and the first contract was given to Colt at $20. If you will read the 20th page you will see.

Q. Is this the report you refer to?

A. This is the letter of Sec'y Cameron, I suppose, making up a portion of his various reports to the Sec'y of War.

Q. You did not then state to Mr. Pearce that you did know what the terms of the contract were, except stating that you did not know officially?

A. I did not know officially until Mr. Cameron, in the presence of Gen'l Ripley and Senator Simmons, stated that it was $20. That was my first knowledge, officially.

Q. When was that inquiry made? When the order was officially made in the presence of Gen. Ripley, or when the note was first written?

A. When the note was first written by Sec'y Cameron—the first interview that we had on that day.

Q. Then you knew?

A. Yes, sir.

Q. And the price itself you did not pretend was fixed in any way than by the voluntary act of government, between Gen. Ripley and Col. Colt?

A. Between Gen. Ripley and Col. Colt; that determined the price for all.

Q. You had nothing to do with it of course. It was a duplicate; that was all, sir.

101 Witness. There are one or two points I want to name. One is that John B. Anthony told me that after the defeat at Bull Run they had determined to go into this business on a much more extensive scale on account of that defeat, the prospect being that they had more guns to build. I then ought to add that Mr. Anthony did say to me, just after Bull Run, that he would have signed an agreement to have given me all over $17, because he would have been delighted to have had the contract at $17. He would have signed an agreement; he said that to me in his carriage coming through Exchange Place and Exchange street to the Exchange Bank; made that remark to me in his conversation; said he would have been glad to have the contract at $17, and would have given me all over that.

Q. Why did he not do it then? (Counsel for pl'ff: He had got his contract.) Do you mean to say that Mr. Anthony told you that he would have been willing to sign the contract for $17, but would not do it now because he had got the contract?

A. He did not add the last. Said, so glad would he have been that he would have signed the contract to give me all he had got over $17.

Q. Did not that leave the necessary inference that they would not do it now, because he had got the contract? What reply would

102 you make to a man who could make such an assertion?

A. I made no reply. Had no occasion to make such reply. We both got out of the carriage.

Q. Have you ever recognized the man since that would proclaim his own infamy to you? That is all, sir.

Mr. Blake. Just as you please, Mr. Thurston.

Q. Mr. Norris, you stated that you and Mr. Bowen married sisters. Is your wife, who was the sister of Mrs. Bowen, now living?

A. She is dead.

Q. How long?

A. Twelve years.

Q. Did Gen. Ripley fix the price of the guns at $20. and afterwards the cost at $12? What were the reasons for that price in his judgment?

Counsel for def't. If you will allow me to put in the report. (Mr. Blake: Certainly.)

Q. (By Mr. Blake.) Have you any children by your wife living; any existing family connection?

Mr. Page, counsel for def't. You may put in anything upon that point at any time during the trial. (Laughter.)

103 *Testimony of Samuel Lehman.*

Examined by Mr. Hazard:

Q. Where do you reside?

A. In Springfield, Mass.

Q. What is your age?

A. About fifty.

Q. Are you acquainted with the manufacture of fire-arms?

A. Not all, sir. I am inspector of United States arms.

Q. Where?

A. At Whitneyville, New Haven.

Q. Where did you first begin the manufacture of fire-arms? When does your knowledge begin?

A. In 1831.

Q. At what place?

A. At Valley Forge, Penn'a.

Q. Will you state from that time generally your means of knowledge, occupation, and the places, so that the jury may see your qualification? What did you do at Valley Forge?

A. I worked on two or three different parts of the arm, about two years in that place.

Q. Where next?

A. In Philadelphia.

Q. What did you do in Philadelphia?

A. I worked on different parts; not the same parts at that time; different parts.

Q. What parts?

A. I worked on filing bayonets, filing guard-plates, and
104 band-springs, lock-plates, and sears.

Q. How long there?

A. I cannot say precisely how long I was employed in Phil'a, but in 1842 I will state that I left Penn'a and came to Springfield.

Q. Had you, from the time you came to Valley Forge and Penn'a, been all the time employed in the manufacture of fire-arms?

A. I had been employed all the time there on piece-work on machinery.

Q. You was employed in the manufacture of fire-arms—tools or machinery to make them with?

A. With the exception of two or three months which I worked in the machine shop for the purpose of getting information. In 1842

I commenced in Springfield as tool maker. I was employed as tool model maker from that time until 1855. In the fall of 1855 I was appointed foreman of the model department. I remained in that position until March, 1859—foreman of the model department. I am wrong about the date. The model of 1855 was not commenced until 1856.

Q. Was anything done at Springfield armory while you were model master. Mechanically was anything done there extraordinary and out of the ordinary course of business; and if so, what did you superintend? Was the United States army musket remodelled at that time?

A. It was from the model of 1842 to that model of 1855 called the self-primer.

105 Q. Under whose superintendence?

A. John Whitney's.

Q. Who had the superintendence of the model?

A. The master mechanic, Cyrus Bucklew.

Q. What did you do?

A. I was foreman of the actual manufacture of the models and model gauges.

Q. The practical part of it was done under your especial supervision and care?

A. It was.

Q. How many models were made?

A. Three.

Q. As a matter of fact, what was done with the model muskets when they were made?

A. The original was kept at the Springfield armory, the duplicate was sent to the War Department, the triplicate was sent to Harper's Ferry, the other national armory.

Q. You say there were model gauges made for the United States?

A. Three sets of model gauges, complete.

Q. They were made under your supervision?

A. Yes, sir.

Q. And distributed, following the model muskets?

A. Precisely so.

To the court. The model is a perfect arm, made as a standard.

Court. What are gauges?

A. Perfect gauges to be kept as standards to the govern-

106 ment model, not ordinary work, but models. In case models are to be made for contractors, these gauges are made to gauge the parts to see that they are as perfect as the original model musket. Some parts of the musket have as many as six or seven gauges, for instance, lock plates.

Q. How many distinct parts of a musket are necessary to a perfect arm?

A. Fifty-two.

Q. Every one must have at least one gauge?

A. Except one. Except the little pin at the top of the barrel, which is an unimportant part.

Q. If that is a perfect arm it has fifty-two parts; every one must have a whole gauge except that pin?

A. Yes, sir.

Q. Some five or six?

A. Yes, sir; the lock plate has six or seven gauges.

Q. These are kept at three armories as standards for models which the government may furnish the contractors to make.

A. They have ever been so except for the last five years, when we had but one or two armories.

Q. This was in 1856 you made the arms; how long after that?

A. Until March, 1859; I went to London, England, and was employed there by a company called the London Armory Company.

Q. For what purpose?

107 A. For the purpose of being a foreman to raise an establishment upon the same principle or system as the American system of making arms.

Q. What was the distinction between the American and English systems?

A. An interchangeable system.

Q. Do you mean that was adopted in England and Europe from this country?

A. In England alone.

Q. It did not exist on the continent that you are aware of?

A. Not at all. It does not now, I believe.

Q. Did you go to London in the employ of this, the London Armory Company?

A. Yes, sir, I did.

Q. Where was the machinery made which you made in setting up for this company?

A. At Chicopee, Mass.

Q. Did you have anything to do with the supervision of that?

A. Not at all here; I did not.

Q. What was the cost of the machinery made to carry out?

A. I cannot say what the cost of the machinery was, separate from the whole cost, nor within a dollar what the whole cost was; but I will state that I am positive and will swear that it was within $150,000, £30,000 pounds covered the whole expense of manufacture here at Chicopee, the fixtures partly made, shipped over, and there

108 adjusting the machinery. (This I have from the engineer that made the machinery at Chicopee Mass., and set it up there.) This was for shipping, foremanship of two of us, and all other expenses, many fixtures and tools were made there complete as a whole.

Q. Where were these works established?

A. In the city of London; not the city proper, but on the Surrey side of the Thames, perhaps $\frac{3}{8}$ of a mile from the city proper, $\frac{3}{8}$ of a mile from London bridge, which divides the city proper from the Surrey side of the river.

Q. Who had the superintendence of the establishment of these

works—the practical part of it, not the nominal part, but as a matter of fact? Did you not do it yourself.

A. I did not superintend the establishment, but I was foreman to adjust all the machinery that was sent over, and manufacture such as was made there.

Q. You were the man to introduce the American principle which was adopted there practically?

A. I was, sir.

Q. Was it successful?

A. It was.

Q. How long were you there in that employment, months or years?

A. We were one year putting up the machinery and get-
109 ting the whole establishment well started from the 1st of April, 1859; the second year we made over 12,000 Enfield rifles, as they called them; the third year we far exceeded that. Over 11,000 went to the Tower of London; enough to exceed 12,000 were sold to private individuals.

Q. How is that stock made? By hand or machinery?

A. This stock I hold is made by machinery.

Q. Had any stock been made by machinery before they adopted this principle?

A. They had tried to do something at it, but never accomplished anything. Their principle is not right, I presume.

Q. While you were there, when our troubles broke out in our country, did you meet Crowningshield, who was sent out by the government of Massachusetts to purchase large quantities of arms in England?

A. I did, sir.

Q. Was you employed by him? And if so, for what purpose? To aid in the purchase and inspection of arms?

A. I was employed by him; loaned by the London Armory Company to inspect arms to four several States of America, viz: Maine, Mass., Conn., and Ohio.

Q. What were those arms?

A. They were called Enfield rifles. They were not precisely Enfield rifles; not as good a rifle as the government arm.

Q. How many were purchased?

A. I cannot say precisely how many were purchased. I inspected about 20,000 myself. We had a large order at the time the
110 embargo was put on by the Queen's proclamation, which, therefore, were not shipped.

Q. You went with him personally to different places and inspected them. They went under your personal inspection?

A. Over 20,000. I inspected them myself. I had two assistants to repair or put in good order those guns I inspected myself.

Q. You said that you were inspector. What are your duties now in America?

A. My duties are to inspect arms, accept all that are serviceable, and condemn all that are not. I get my appointment from Major Thornton, of the *Waterville* arsenal.

Q. You are United States inspector; you profess to be familiar with the practical manufacture of every part of the musket?

A. Yes, sir, I do.

Q. With every part of the gauge?

A. I have made every part of every gauge myself, with these hands, within the space of 30 years.

Q. In your opinion, what can a Springfield rifle, such as described in the contract here, be made for?

A. If you mean to say the material and the workmanship, it will come a little short of $10. I figured it up, not including the appendages, which I know nothing about; I don't know what they cost. I figured it up at $9 50 odd cents.

Q. Do you mean exclusive of the appendages, $9 50 odd.

111 A. I do, sir.

Q. Have you any estimate made by you of the different parts? If so, let us see it.

A. Not every portion of the different parts.

Q. Have you made any memorandum of the cost of the barrel?

A. I put this barrel at $3. The material for that barrel cost just one dollar. 10 lbs. of the best Marshall iron costs one dollar. The workmanship of that barrel will be $1 25. I put the remainder so as to swell it up to $3, for the loss of the barrels that are rejected. I put the bayonet at $1 40. The material and workmanship will cost less than $1 20, and the losses will swell it to furnish the thousand, would cost $1 40 each. We say the bayonet costs $1 40, including losses. By losses I mean in every respect and in every shape, from the time you commence the bayonet until they are done. The lock costs $1 50. There is a man out in New Haven who has 35,000 of these same locks to make for one dollar. All things are furnished him; all machinery and fixtures to begin with He has to keep them in repair. The material is furnished, which swells it up to $1 50.

Q. How many pieces are there in it?

A. There are 11 pieces in that lock.

Q. What next? You have given us the barrel, bayonet, and lock.

A. The stock I put at $1. The cost of the *cost of the* rough stock was that in 1856 and 1857, previous to this excitement. I do

112 not know what they are paying now. The rough stock 26 c., and the workmanship of the same 25 c.; 30 c. for the machinery. The stock is $1, according to the following enumeration:

The rough stock costs	26 c.
The machinery of the same	30
The boring of the rod hole	25
	81 c.
Then there is a loss in timber, am't'g to	19 c.
This would swell the cost to	$1 00

The ramrod costs 40 c. to stand my inspection. The cost of material and workmanship is 32 c., and there is a considerable loss on ramrods; I put 20 per ct. for losses—the whole amounting to 40 c. The guard I put at 63 c. The butt-plate at 30 c. The rear sight at 50 c. The front sight is a fixture, and, therefore, is not a movable part. The side-washers, 3 c. The three bands and one swivel, 24 c. (The cost of the middle band is nearly as much as the two, the lower and the upper.) The stock tip, 8 c. The band springs, 21 c. (It costs about 8 c. forging, and 12 c. for machinery and filing.) The rod-stop, 1 c. Three screws, called mounting screws, 15 c. Two cones, 10 c. I include the marking-screw and the other screw in the $1 50 for lock.

Q. You heard some questions asked yesterday about the probability of an interchangeable musket being made at different places and having it brought together and put up as a whole musket—a perfect arm, and one that would be successful; by which is meant one that will pass inspection of any inspector of the United States.

113 A. My opinion is that it is practicable, and I should like to see it adopted as a system.

Q. Is there any more impracticability in making the different parts of an interchangeable musket in Providence and in Boston than there would be in the different rooms of the shops at the Springfield armory, Harper's Ferry, or any other armory—if the distance is a hundred feet or a hundred miles?

A. There is but one exception, and that is the transportation of the articles.

Q. As a matter of fact, does not the Springfield armory let out its work—different parts of the interchangeable musket to be used?

A. Yes, sir, they do, a great many of them. I have inspected five different parts manufactured by Mr. Bush, of Middletown, Conn. On 2 or 3,000 parts, perhaps 3.000 tumblers, 3.000 hammers, 3,000 main-springs, 1 or 2,000 rears, made by Mr. Bush, of Middletown, Conn., I took the thousand parts, the tumblers for instance, and inspected perhaps a hundred, and applied every gauge as it is laid down in the Ordnance Manual, specifying the places, of course, of gauging. (I could not apply them otherwise than as they were made,) and I found it not necessary to inspect more than 10 out of 100. Out of 100 I did not find one but went into every gauge or every gauge into the part, and so in all the work I inspected for Mr. Bush.

Q. Do you know whom those were made for?

114 A. They were made for Mr. Norris, and furnished to the Springfield armory for repairs. And I will make a statement of what I did with them thereafter. I took some of these tumblers over to the assemblers of locks in the armory in Springfield. (This was in the arsenal I inspected these parts—in the new arsenal in the armory.) I took them from the place of inspection to the armory, and gave them to the assemblers of locks, and told them that there were 100 tumblers—they were a new milling—they should try them in their locks and report to me. I called it a new milling because I did not want them to know whose they were. The object was to as-

certain whether they could possibly find anything that I had not found. After they had assembled them and put them into locks, I asked of two persons who had put them in what the result was, and they said they could see no difference—no improvement on the other on those that they were using. But, said I, "Do you see anything wrong about them?" Said they, "We can see no difference at all upon them." They supposed they were manufactured there and keyed a little different. I did it, of course, to test their notions about these things.

Q. You said you wished this system to be adopted; what is your reason for thinking it to be a good system?

A. I think it is an economical system; for instance, three contractors had 50,000 of those to make in one year: each of
115 those men would have to have complete set of fixtures from beginning to end, gauges, tools, and everything to manufacture that musket. He would have to have a gauge for every part, so that every one of these contractors having a complete set of gauges for every part, each would have a complete set of fixtures; yet it requires but one complete set of fixtures—standard gauges, inspector's gauges—to make 50,000. It would require little more machinery in the establishment to manufacture 50,000 of these muskets than it would in three establishments, or, in other words, to manufacture the third of 50,000. That is one reason; but that is not, perhaps, answering your question. I think we would have better work—more uniform work by it. I was going to state that in manufacturing these parts of this gun it is of no advantage at all to have your musket in one establishment; there are 52 parts, and I say a certain number, as nearly as possible, they might be divided into the remaining sovereign States of America, and yet be manufactured to perfect satisfaction. That is, I could furnish men that would be competent to take 1, 2, or 3 parts to Illinois, or any other place, manufacture and send them to Springfield, and they would come within our gauges.

Mr. Hazard. And then, of course, men become more perfect by directing their attention to one particular thing continually.

A. Exactly so. We will suppose there is a man in Spring-
116 field that files that little band spring, and has done it for 12 or 15 years; if he is obliged to work on 3 or 4 parts of this gun to amount to a yearly salary, he would not be so perfect on any one of them in some little petty establishment.

Cross-examination.

Q. (By Mr. Thurston.) They made muskets in Springfield armory as economically as anywhere, I believe; the principle of supervision of labor is carried to its full extent in that establishment?

A. No doubt of it, sir.

Q. Will you tell us what the cost of a musket is at the Springfield armory?

A. I cannot tell you precisely.

Q. Can you tell anywhere near—fact, not theory?

A. I cannot at present.

Q. It is impossible; they do not know the cost themselves?

A. I do not think they do at present. As they increase the number of muskets, of course that must diminish the cost of the arm. There is but one superintendent there—the superintendent of the whole establishment. If they make 200,000, it don't cost any more than to make 12,000.

Q. They do not know how much it costs. How is it that you know?

A. I do not say that I have given it to you exact; I say within the bounds of reason.

Q. Then you wish to have us understand that these various
117 prices you have given to the parts of a musket are estimates in your own mind?

A. And positive information.

Q. Do you mean to say that you have positive information as to all the parts of which you have spoken composing in the whole the entire arm?

A. No, sir.

Q. Is not the exact fact this: that with reference to some of the parts of the musket, you are aware of contracts being made at the prices you have named to the manufacturer; and in reference to some of the other parts, making together the whole musket, that you form your statement on opinion and estimation?

A. I am quite sure that I have put a fair estimate on the parts.

Q. With reference to some of the parts of the musket, you know at what prices they have been contracted for with different individuals?

A. I do not, sir.

Q. With reference to some of the parts of the musket, you know at what prices they have been contracted for; with reference to other parts of the musket, you form your opinion as to what they would cost from your estimate?

A. Exactly so; precisely so.

Q. Did you ever know, as a matter of fact, a musket to be made at the prices you have named?

A. Yes, sir.

Q. An entire musket?

A. An entire musket. One year, between the years 1850 and 1855, an entire musket did not cost $9; $8 75 was the entire cost at the Springfield armory. There were about 23,000 arms made
118 that year, which reduced the price of the musket. That was the model of 1842. It is not the model used now.

Q. There is very little difference in the cost of the arms in your judgment?

A. In my judgment, the difference is, that of being applied in a little different shape. This may cost a little more; not 7 c. more. This barrel is rifled; that was not. It don't cost over 5 c.; I cannot tell exactly. That don't cost over seven cents, and this sight 50 c. Some parts of the last gun were more expensive than this.

Q. You do not know what the cost is of a Springfield musket. You have stated the difference between the arm that cost $9 and the present arm, and stated that the increased cost, allowing for the difference in favor of the present arm over the old one, would not be much more than 50 c. Now, I want to know, if you understand or have heard that the cost at the Springfied armory is $13 93, should you consider that a large price or a small price?

A. As regards the price, I consider the time of the delivery of the arm as of more importance than the cost. They can be made for $12 each, including appendages and labor.

Mr. Thurston. "The present cost at the United States armory is $13 93," (reading from report of Gen. Ripley.) The witness said, last year they could be made at $12.

Court. I understand this witness does not include append-
119 ages.

Q. The present cost is $13 93. Do you know whether that cost includes anything for rent of armory, cost upon investment, machinery, and other expenses, or the mere cost of labor or superintendence?

A. This is the whole cost, including rent of property; that is my opinion and belief.

Q. Do you know anything about it?

A. I know it includes building and all the machinery, all the fixtures and tools, and officers of all kinds.

Q. Do you not know, sir, upon that point, that the cost to the United States government for each gun made at Springfield, including an allowance for the occupation of the building, investment on machinery, is $30 a musket?

Witness. On 150,000 muskets a year? I do not believe a word of it.

Q. Your business at the Springfield armory was what?

A. The former part of it, tool model maker; the last of it, previous to 1859, I was foreman of the model and tool department.

Q. A subordinate department?

A. Yes, sir.

Q. You do not mean a model musket when you speak of models?

A. I do, sir; every part of this musket being a perfect gun. There were but three being made. There was a superintendent to make the three.

Q. You said you had charge of the model department at that time, and had charge of making these guns. What did the model department consist of?

120 A. It consisted of model machinery, and tools of all kinds necessary to make these models.

Q. The models were only three in number?

A. That is all that we made at this time.

Q. All that you know of that have ever been made?

A. I do not know what has been made since; I have not been there for years.

Q. Of all these model guns, to which all these contractors are obliged to work exactly, there are but two that are available now?

A. Not any of them are available now; not one. I stated that one had been sent to Washington, the other to Harper's Ferry, together with the set of standard gauges that accompanied each.

Q. Two that could be got at; the other the rebels have got. One is at Washington, and the other at Springfield?

A. Yes, sir.

Q. They can be reached; be handled by somebody?

A. Yes, sir, at any time.

Q. There were only three sets of gauges that accompanied these; one set went with each of the respective arms?

A. Exactly so.

Q. Are those gauges allowed to go out of the United States armory at Springfield?

A. Not at all, sir.

Q. Is the model musket allowed to go out?

A. It is not, sir.

Q. Suppose you wanted a set of gauges to make a musket; what would you do?

121 A. The government will select out of a box of 500 or 1,000 parts, every component part of this gun, as nearly perfect as possible, correct them by their standard gauges, and give them to the contractor. He will go on, and make his gauges according to the parts furnished, whatever they may be, one, two, five, or ten; and go to Springfield if he has a mind, to verify his gauges by the standard model musket.

Q. Suppose there is any variation between the article they furnish and the gauge. They make their gauges by the article furnished them?

A. I will state that the gentlemen Mr. Norris is now contending with secured a musket, as I have stated, a sample; not a perfect model, and selected out the different parts, as perfect as could be got, without being called a model, and stamped a model. They went on, and made gauges according to the best of their ability by this arm furnished them. They then, to their credit, went to Springfield armory, and examined the gauges, and verified the gauges with the Springfield gauges, in company with the foreman of the model department, (I state upon my oath.) They took these gauges manufactured according to the best of their ability, and went to Springfield; I state this by my own observation; I was at that time inspecting in that very room, where they brought the gauges inspecting. They found that their gauges were not according to the model; the standard model would not go into them. They hired

122 a room in the street, ¾ of a mile from there; took a room and worked their gauges; worked them out the best they could; went to the armory and tried the parts in there; and so went forth until they had gauges verified by the standard gauges to suit the standard model.

Q. Does it not show as a matter of fact, and is it not a fact derived

from your knowledge of this, as well as other circumstances of that character, of which this is a fair type, that the utmost exactness is required in making gauges, and the greatest difficulty is in the way of obtaining them?

A. The same difficulty will be required in the full arm that will be in part of the arms. The same difficulty will be required in any case.

Q. Let me ask another question, to show that fact still further. Is any one of the muskets that are furnished by the government to the Tool Company, for example, a model musket?

A. If they were, sir, it would not be necessary for them to go to the Springfield armory to verify the gauges, and hire a room to make over their gauges which were not finished, but merely partly made; at least they were not right.

Q. Now from your experience in that armory, what is the cost of manufacturing a model musket? How much does it cost?

A. I cannot tell to a cent, but I can tell what was appropriated to make three model muskets, and the model gauges, and at the same time, I will further state, that there was $10,000 appropriated
123 for that purpose, $10,000 to make three muskets, and three sets of gauges, and that is a fair allowance for making these articles; I cannot tell how much of this was used.

Q. Don't you know from practical experience, that it would cost about from $800 to $1,000 per musket?

A. I have no doubt that it would.

Q. Have you any doubt that each set of gauges would cost $2,500 a set?

A. I am inclined to think that that would be nearly the cost; that you are within $200 of the cost, either up or down.

Q. Now, a single question that occurs to me. You stated that upon the inspection you had made of certain parts of the musket, the tumblers that you had made under one of Mr. Norris's contracts turned them into the armory for examination. You found it necessary to inspect only one in ten. Did I understand you from that, that you took only ten of those tumblers, and passed them through the guages?

A. I found that was all that was necessary in trying one hundred out of one thousand; I found them all perfect; took them up as it happened. I found it unnecessary in my judgment to inspect more than that, except as to the external appearance; I also inspect every part of the material, and every part of the gun.

Q. The fact was, then, that you took a hundred in the first instance, and inspected the hundred, and then went on and satisfied yourself by inspecting only ten per cent. of the rest of them?

124 A. You are right, sir.

Q. You passed all the rest by inspecting ten per cent. of them?

A. By applying the gauges on 10 per cent. of them, and externally inspecting every one of them.

Q. The external inspection was confined to examination by the eye, and the senses of the outside?

A. Exactly so.

Q. Do you not know that defects that are not perceptible by the eye, are determined and detected alone by the application of the gauges?

A. That is so, sir.

Q. Then you simply passed the lot on the inspection of 10 per cent. Did you ever know of an inspector that ever passed in that way before?

A. I did, sir.

Q. Those are not the instructions?

A. The foreman has power to instruct me to do so.

Q. Was your course reported to the superior who instructed you, that you passed some by examining part of the lot?

A. That is an established rule at the United States armory, Springfield, that when they find a certain number right, to let the rest go. If I should find one out of a thousand, or ten out of a thousand, those tumblers would cost ten times as much as the inspection of the whole 10,000 tumblers.

Q. How many different operations are there in the manufacture of a musket, numbered as operations on which contracts are let out, such as forging the hammer, milling, &c.? How many are
125 there of that kind, that are made the subjects of contracts by the Springfield armory?

A. I cannot state; more or less.

Q. Can you state whether there are more or less than 415?

A. I know there are more than 200 in the Rodman armory on the single article of the barrel.

Q. In the application of all the tests by the gauges, how great allowance by the rules of the department are you permitted to make? What variation between the gauge and the article, expressed in thousandths of an inch?

A. The bore of the barrel may vary $\frac{25}{1000}$; that is the greatest variation of all. If there is a variation greater than that, I should condemn it, sir, as unserviceable.

Q. The $\frac{1}{4}$ of $\frac{1}{100}$ part of an inch?

A. It would show a horrible chasm in the bore of the barrel to see the vacancy of $\frac{1}{4}$ of $\frac{1}{100}$ part of an inch.

Q. What variation upon the lock-plate?

A. Suppose you put the lock-plate into the receiving-gauge; that lock plate is off.

Q. Describe what sort of a receiving-gauge you put that in to test it?

A. The receiving-gauge being steel similar to the cavity of the stock. That is the only receiving-gauge. There are several gauges that would be called receiving-gauges—a cavity or otherwise to receive the lock as it is in the wood there, that is open on either side, so that I can see through.

126 Q. How great a variation between the outer edges is allowed between that and the internal gauge?

A. There is none.

Q. Is it not the rule to see daylight?

A. I should prefer to see daylight very slightly than to have it bind or draw the gauge out of shape. The only rule is a maximum of 58 to $\frac{25}{10000}$.

Q. If there is a variation of $\frac{25}{10000}$, that is a condemnation?

A. If there is $\frac{1}{1000}$ of an inch, I should condemn it.

Q. It must be as nearly exact as it could be capable of being made?

A. $\frac{1}{1000}$ of an inch is quite an item in my estimation.

Q. With reference to the other parts of the musket—take the guard—is the same rigidity of inspection applied to that?

A. It is not necessary to be quite so accurate, with the exception of the edges where the part passes into the receiver. The thickness may vary a little more than $\frac{1}{1000}$ of an inch, and the edges I should require to be the same.

Q. Do you make an exact and careful inspection upon that part of the musket where the trigger makes its connection with the lock? Is there any particular accuracy of inspection employed there?

A. We have a gauge to tell the precise size of the trigger, a receiving-gauge to take in the lock—trigger hung. That will tell the precise position of the sear, otherwise it might break off the half-cock notch, in consequence of that being nearer to the pivot of the tumbler than the cock notch. There is no very accurate

127 inspection upon this. It is merely to take the guard; we merely lay a piece of sheet-iron across it, lay it on the guard, and tell the height by looking through. If it comes within $\frac{1}{100}$ of an inch, it will be accepted.

Q. How many times and in how many different places must the test-gauge be applied in order for the musket in all its parts to pass inspection, allowing only the variation you have inspected?

A. I am not able to answer that question at present.

Q. Can you state whether it is more or less than 700 times?

A. I cannot.

Q. Would 700, in the best of your knowledge and judgment, be a fair allowance? Does it appear large or small?

A. It does not appear at all, sir. I cannot tell the number of times the gauge shall be applied to the different parts of this musket. I know there are 6 or 7 gauges to that lock-plate. I know that to put it into a receiver is another gauge. I know there is a grove-gauge to take in the thickness of the bolster; that would be two places. Another for the thickness of the lock-plate; another to show that bevel; that would make as many as I have stated. Again, there is a little plug with a screw put on.

Court. Is this for the purpose of ascertaining that this man is an expert?

Mr. Thurston. If this exact requirement is made, it has a direct bearing upon the question of costs, upon which we are going

128 to exhaust the evidence which we have (which will be voluminous) to show that a musket cannot be made for any such price as these gentlemen have supposed; cannot be made for double or treble that sum, because the requirements are so excessively stringent that a barrel may be entirely perfect to an ordinary observer, but when you come to apply it in all these various parts out of 550, it may pass in all others and fail in one. If it were not for this accuracy, not a single sabre would be received.

Q. Has there been a single musket assembled together and received by the government, the parts of which have been jobbed out about the country, under contracts issued during the past year?

A. I do not know positively. I think there has been in New York. I think they are a hand-made gun, not a machine-made gun, not interchangeable arms.

Q. I presume not. Explain what is meant by interchangeable arms.

A. I take this arm and 999 more and throw the whole of these hammers into one box, all the bands into another, and those into another. Each thousand shall go into separate boxes. So we will do with the whole arm. Then assemble all this gun. We will take one part from every box and assemble one gun from the whole 1,000 interchangeable guns, each part goes to its appropriate part.

129 Q. You thought it would be an advantageous mode of construction to establish these jobbing shops all over the country, and assemble the musket together at a different place from that in which they were made. Would it not require in each one of these instances that the parties making the pieces of work which they had contracted to make should be provided with a set of gauges for that part, corresponding exactly with the standard gauge?

A. They have the privilege to provide themselves with such a set of gauges. It is not rulable for the government to furnish them.

Q. It would be necessary to have it if their work was ever received?

A. Certainly so; it is no business of the government to furnish it. Such things happened many years ago—15 years ago—not recently.

Q. The cost you have already spoken of; I will not detain you further upon that. The Arms Company, for whom you are now acting as inspector, do not make Springfield muskets?

A. They have a contract of 25,000, but are not making them yet. They have not made them yet that I have inspected. I have been inspecting pistols and revolvers—the Whitney pistol.

Q. That is inspected by the company gauges, I suppose?

A. No gauges at all, except gauges for one or two parts; the cone and the bore are about all.

Q. A very different system of inspection from what it would be in the case of a Springfield musket. You were inquired of concerning the cost of that machinery which went over to Europe for the purpose of making the musket that the London Arms Company

130 was intending to establish in Europe. You said it was $150,000. Machinery capable of producing what quantity?

A. I stated that the second year it produced 12,000. It took the first year to adjust the machinery, and adjust what fixtures had been made at this establishment and manufacture more. They were not all the fixtures—not fixtures for machinery; every part were made there, merely the heavy ones. The small tools, such as drills, gigs, gauges, &c., were made in the London armory establishment; and the third year we made at the rate of 350 a week.

Q. Then with all the machinery, with the exception of fixtures made in this country and carried to Europe, it took a year before there was any fruit from that machinery. Next it succeeded in bearing 12,000. After it got in operation it progressed. Did that $150,000 include the cost of any substantial part of the fixtures, drill, gigs and others necessary to work these machines?

A. It included the whole cost, exceeded the cost, according to my information from my friend, who was engineer. That included the establishment complete, ready to operate, and the superintendence during the year—all the expenses of every kind.

Q. Do you know as a matter of fact, from any experience you have had on the subject, whether, at the time these troubles broke out, there was in this country a limited supply of skilled labor in

131 this department?

A. I do not know, sir, that fact.

Q. There were but two national armories, were there?

A. I believe so.

Q. Do you know how many barrel rollers there were in this country when these troubles broke out? Two sets that I am aware of, (they consisted of one each.) That man at Harper's Ferry went to Richmond, did he not?

A. I do not know, sir.

Q. Don't you know that there was but one man in business that knew how to roll barrels? Was not another man imported from Europe to roll in the night time?

A. Mr. Runyon was the man, I presume.

Q. Was not his brother imported?

(Witness assented silently.)

A. No credit to the Yankees at all, I suppose.

Q. Each plate for the barrel costs a dollar. Was there not a limited supply of that iron? Is there an establishment that can turn out a plate that can be rolled into a barrel that will stand inspection?

A. I think there are establishments that will roll iron that will make a barrel that will stand inspection.

Q. Can you name a single man that has done it?

A. I do not know as I can just now, sir. The barrel iron was all made previous to 1855 in this country. Why can they not do it now?

132 Q. Do you mean to say that you know of a single concern in this counrry that makes barrel iron?

A. I think it is possible they can. It is probable, if they put themselves about it.

Q. Who made the barrel iron previous to 1855?

A. I cannot tell. There was none imported previous to that time.

Q. Who was the manufacturer?

A. Mr. Pomeroy, of Pittsfield, used to furnish some.

Q. How do you know the fact that none was imported?

A. I am sure there was not until after 1855.

Q. How do you know the fact?

A. I should have known it if it was so, being connected with the armory.

Q. If you would have known the fact that it would be imported, you would have known the source from which the supply came in all probability; still you cannot tell us?

A. I know a man that went over to make a bargain for these rolls of iron, a gentleman from the Chicopee establishment.

Q. Was there a single barrel rolled in this country before 1855?

A. I think not, sir.

Q. What kind of iron exclusively does the Springfield armory now use?

A. I don't know, sir; I think they use some of the Marshal iron.

Q. That is the iron which you have spoken at a dollar a
133 plate?

A. They should do so if they have good materials as they do.

Mr. Thurston. With reference to the extent of supply you have already testified.

Re-direct examination.

Q. (Mr. Hazard.) Do you know who has a quantity of Marshal iron now on hand?

A. Ely Whitney has ten tons on hand, the proprietor of the establishment near Whitneyville, Conn.

Q. I want to ask you a single question; there has been a great deal said about assembled muskets, whether one has been received by the government since these contracts were given out. Has any one been rejected?

A. No, sir.

Cross-examination resumed.

Q. (By Mr. Thurston.) You stated that there were 10 tons of Marshal iron in this country. How many barrels will 10 tons make?

A. It takes figures to tell that. If 10 pounds make a barrel there is a supply for about 20,000 barrels; that is all I know of in this country. Mr. Whitney says he can get all he wants at the shortest notice.

135 *Examination of James A. Wheelock.*

Direct examination by Mr. Hazard:

Q. Where do you reside?

A. Middletown, Conn.

Q. What is your occupation?

A. I am secretary and treasurer of the Savage Revolving Fire-Arms Company.

Q. How long have you been there?

A. I have been there since the organization of the company, nearly three years.

Q. What is the business done at that establishment?

A. We have been manufacturing revolvers; we make the Savage pistol belonging to the company or to Mr. Savage. We have been making for the gov't; concluded our last contract on the 10th of June; that contract was 5,000. The price was $20; the gov't agreed to pay $20 apiece; but finally were obliged to compromise at $19 apiece.

Q. Are you, or is your concern, an applicant at Washington for a contract to make Springfield muskets, such a gun as you hold in your hand, such a gun as is described in this contract?

A. It was a Springfield musket of the present pattern; I presume the same as described in the contract yesterday.

Q. What was your proposition to the government?

A. I sent a proposition in there at $16 apiece for 50,000.

Q. Are you prosecuting that enterprise of getting a contract still?

136 A. We are, sir; I should have been in Washington but for this detention.

Q. Are you willing to take the contract for any less than $16?

(Mr. Thurston objected to this question on the ground that the witness is not an expert.)

(Mr. Hazard withdrew it.)

Q. Who is the master of the Prov. Tool Co. gun manufacturing establishment?

A. Frederick W. Howe; he is the general superintendent of the armory; he has the whole charge.

Q. What do you know of his competency?

(Objected to.)

Mr. Hazard. So far as I can understand the drift of the gentleman's defence, as he has seen fit to disclose it to us, it will be this: that this company are going to be at a small profit or at a loss of a hundred thousand dollars in carrying out this contract. They have employed a man as master armorer named Fred'k W. Howe; I propose to show that he has had a business acquaintance with this man in the business of manufacturing fire-arms, and upon his knowledge he is one of the most expensive, incompetent and dilatory, men in the country.

Mr. Blake. Perhaps if the counsel knew the object of our offering it and the impossibility of having this witness here, he would
137 allow us to put in this testimony by anticipation. The witness knows all about Howe and his competency to set up and establish a gun-making concern.

Mr. Thurston. Oh! go on by all means; Fred'k Howe will stand upon his own merits, I guess.

Witness. We employed Mr. Howe to make for us 2,000 pistols at a certain price; the making of the tools and the time ran over nine months. This was under the sole ownership of Mr. Savage, with

whom I was connected, and in fact engaged him myself. I supposed he was a competent man; he had been a gun maker. At the end of nine months we were obliged to organize this company, composed of a limited number of members ; at that time he had made very little progress on the tools for making the pistol. I think this was on the 1st of September the company was organized ; I think in November the first three hundred pistolswere turned out. During all this time between the first of September and the first of March and November we were very anxious to get these pistols out, as we were obliged to run in debt, advancing Howe for workmen monthly. On the 1st of January we found so little progress made by Howe that I, by authority of the company, made a proposition to relieve him of the contract entirely. He had over-drawn more than the full amount; to release him from all obligation and pay him a yearly salary if he suited us, supposing that by throwing the responsibility from him he would act better as a superintendent. Under a salary we acted till the 1st
138 of April; we were very much discouraged; we found no pistols being made and we discharged him; we considered him incompetent to get up a set of tools to manufacture the pistols; the tools he got up were made wrong ; the important milling tools were made wrong end first, if I may judge from our workmen, who stated that they were made wrong end first ; they altered every milling tool and made new milling tools almost, rather than work with the old ones.

Q. Was he an expensive or economical man in his place, or how was he ?

A. We considered him a very expensive man in machinery, wanting alterations made continually. He would suggest new improvements or ideas upon machinery which in the first place we submitted to, but from the experience of our men and of ourselves—myself (I have been there three or four years, and knew pretty much what machines should be, thought I did,) I concluded that the extra expense necessary to get up these machines was not necessary for the business.

Q. How long since you discharged him ?

A. I think it was within two or three days of the 1st of April, 1861, a year ago last April.

Cross-examination.

Q. Did you ever make any of the parts of a musket ?

A. No, sir.

Q. Did you ever make any tools with which to manufacture a musket ?

139 A. Never ran a machine, sir.

Q. Did you ever superintend a contract for muskets ? Did you ever superintend the manufacture of any machinery, or ever make any drawing for any machinery ? Did you ever have anything more to do than the clerical duties of the counting-room ?

A. Paying off hands and making all the contracts ; we contracted 10,000 parts of pistols out to 7 or 8 contractors.

Q. You made the contracts under the direction and judgment of others.

A. Our present superintendent and myself made the contracts.

Q. The superintendent was the mechanical superior; it was his judgment that governed in this matter?

A. It was, sir; sometimes the superintendent would place a value on a piece of work, and I would consider, and he would bring it down to my price.

140 *Examination of Benjamin Flag.*

Q. Where do you reside?

A. In Millbury, Mass.

Q. Are you acquainted with the manufacture of fire-arms?

A. I am somewhat acquainted with the manufacture of fire-arms; that has been my principal business: I commenced in the armory in 1820, when I was quite a boy; I am still engaged in the manufacture of fire-arms.

Q. What kind of arms was then being made?

A. They were making smooth-bore muskets for the United States government.

Q. How long did you continue in that pursuit?

A. We made muskets and holster pistols for the gov't up to 1847; I was continually in the business up to that time, on those two kinds of arms.

Q. From 1820 to 1847 you were uninterruptedly employed in the manufacture of pistols?

A. I was interested in leasing? (?) (not heard distinctly,) establishments for the government; part of the time I was as workman and part of the time as master armorer, and after that interested in carrying on the business only so far as the doing of job work is concerned. After 1847 we did not work directly for the government until quite recently. We were getting out cotton machinery, getting up cotton mills, &c.

141 Q. How long a time?

A. We have made machinery ever since, more or less; not connected with making arms for the government until recently, but for other parties. In 1850 we made some guns for South Carolina, at Millbury. We agreed to execute the work at Columbia, S. C., with the privilege of making some parts of it at our establishment. I went out there and made them $170,000 worth of muskets, pistols, and fire-arms.

Q. Those were to be made in Columbia, South Carolina. Was the work to be established there?

A. Yes, sir; we built a shop there.

Q. In what capacity did you go?

A. Well, it was done under my supervision. We took this job in connection with a citizen of Columbia. He and I together managed the establishment. I remained there three and one-half years. We are now making bayonets, ramrods, and guards for the Springfield armory; 50,000 of them, including the guard assembled complete.

Q. Are they interchangeable bayonets, guards, &c.?

A. They are putting them into Springfield guns. The ramrod is a heavier one; it has a swell to keep the ramrod in; they find it a failure; that it is a great annoyance to the soldier in drawing it out. The plan of 1861 is a return to the old pattern, the same as the old plan. They put them in as they have occasion into their guns.

Q. Do you profess to be practically acquainted with all the
142 parts of a musket?

A. I do not suppose I have been a very good scholar; I have had considerable experience; I know some things about the parts of a musket. When I was away we had the assistance of Mr. Warner. It was for my interest most of the time to apply myself.

Q. Did you ever manufacture arms for the State of Massachusetts?

A. We have repaired arms for the State of Mass., and made parts of them to repair with.

Q. Do you think of any other outside contract?

A. Yes, sir; we have furnished arms for the State of Rhode Island; sold them arms and bought arms of them. We sold them arms in the Dorr rebellion, and we got them back, more than we sold them.

Q. You will now tell the jury what is the cost to make them.

A. These were some English arms we bought back of them, not the same ones we sold. They had been wet very severely. They were re-shipped and we saved the drawback on them, and all but 2 per cent. of the original tariff.

Q. What does it cost to make a Springfield arm, perfect, with appendages, such as was described in that contract yesterday?

A. I have an opinion about it. I probably should differ from other estimates. It might be higher in some respects and lower in some.

Probably I should not be so wide apart. I have made a good
143 many estimates and seen a good many that others made upon different guns, this and others. Last night I put it down in gross. I have not gone into the particulars of each part. I arrived at the desired result so far as my opinion is concerned. It would be an opinion with some knowledge I have acquired with making the gun. I have put down, as in the best of my judgment, that the stock and labor on the musket will cost $10. I do not go into close figuring. I have got down an item that I call supplies, that is for stock and materials that are used in the manufacture of the arm that are not left in the arm, such as fuel, oil, waste of files, borers, leather for repairing the belts, and a great many little supplies that whoever carries on the business will find it takes to make the gun, and that they will have to pay for, emery, glue, and a great many items. They do not come into the $10, I have put them down at $1 a musket.

Q. Do you think that is liberal or not?

A. I figured it over. It depends a good deal upon the economy of the establishment; some might use more than others; some will use more. I have known many men that would use a half more files than others to do the same filing. I have put down another item that might come into the first estimate, but I have divided it a little. I have put down the cost of the inspecting the gun and the loss; I have put those together; I have estimated them at $2 a gun.

144 We have generally jobbed out our work to hands, one man to do such a part, and he was to see it through inspection. When the gun is assembled there is more or less repairing and jobbing to suit inspectors and get them through. The loss on the work I have called $2; that makes $13. I have estimated to make out the whole cost; I estimated that it would cost to get up an establishment to make 10,000 guns a year $100,000. I calculated that the use of that establishment is worth $10,000 a year, a dollar a musket, making $14 in round numbers.

Q. Do I understand that these def'ts, under this contract, ought to make these muskets for $14 a musket?

A. I think they can be made for that, including everything. We are very likely to forget some part. I think we could not figure up those supplies hardly up to that, but I made a little estimate for supplies that might be forgotten.

Mr. Hazard. The cost of labor, material, and attendants.

Q. What is your opinion about the practicability of making an interchangeable musket at different places and have it assembled?

A. I do not conceive that there is any more difficulty in making a few parts than it is to make a whole gun. I think we could have taken the job as a whole musket; we did not see fit to do it for the reason of the time it would take to get it ready. If the work passes inspection at our place, it is presumed that it is going to fit the gun.

I do not conceive it is any more difficult to make the parts in
145 different places than in one place.

Q. Will you tell the jury what was furnished you when you got the contract?

A. We had a bayonet and guard furnished that were selected out of their work by one of the inspectors or gauge makers. I do not know which. Two or three had something to do about it, of the Springfield inspectors; they made us a pattern and stamped it as a model.

Q. These that were furnished you were intended to be as nearly perfect as they could be?

A. It was as nearly perfect as they could pick out of their work. We took the bayonet to Chicopee and hired them to make us a set of gauges similar to those they were making for the government. We took it there and agreed with them to get up a full set of gauges for the bayonet; I do not recollect how many pieces, but I think about half a dozen different gauges; one to take the bayonet in whole length, some for the outside, some in this place, some in that, probably about eight of them, perhaps more—between 7 to 10. We made the tools from the pattern they gave us. The tools at our shop.

Q. Had not you the liberty to take them to Springfield and have them verified. Could you do anything more than that if you were making them at Springfield armory yourself?

A. It is pretty nearly what they did; they took them home to Springfield armory, and verified them as they needed it.

146 Q. Will you tell us whether these bayonets and guards are used on new work to complete the new musket?

A. Part of the time they had muskets waiting for the bayonets; pretty much all the other contractors were behindhand. I have seen them put on the same half day they got there ; take them up promiscuously and put them on to a musket.

Cross-examination.

Q. What is your experience in respect to the manufacture in ramrods, and the amount of loss upon those ramrods—the early lots you delivered ?

A. Our loss on ramrods is pretty high; we have been troubled with seams. We have been at a loss to know whether to assume the fault to ourselves or to the steel, but we have tried some of the steel and with a little more effort to prevent them, we have reduced them very much of late; we are not having the loss that we did at first. We sent out 200 in the first instance. The first were inspected at Millbury. They were not looked over at Springfield ; after they got to Springfield there was no inspection.

Q. How many of the lot of 4 or 5,000 was rejected ?

A. I reckoned up that we lost 20 per cent. of our manufacture at one time within round numbers on ramrods simply.

Q. For what kind of imperfection and how trifling in amount did they sustain or reject them ?

147 A. It is not always alike. It is not alike with the same inspectors, nor with different inspectors; they want them nearly a perfect thing. However, Maj. Dyer told the inspectors that those they found an imperfection in that might be taken out by putting on to a polishing wheel, reducing a little on one side, they might return to us to repair and they would look at them again. We have done so in some instances, and a good part have passed inspection. It leaves about 20 per cent. loss after all that improvement. On the rods to the last 2,000 we have not lost 7 per cent. We have been using some more steel and are a little more careful. I presume that is an improvement in using it.

Q. Your bayonet gauges you had made at Chicopee ?

A. Not all ; we have added some to them, that is for the standard set. The gauges we are using in the shop we made ourselves, and have those to refer to.

Q. You mean you keep this set of gauges as a standard so they will not be worn ? What was your experience with bayonets? How many times were they sent back for you to work over again ?

A. Some of them were sent back, but not a second time that I know of. They were sent back for some slight defects. They did not strike their ideas exactly. Maj. Dyer said it would be easy to alter them there, and he did not wish to mix them in. They want that stop to tighten under the stud. Some went round quite

148 to the pin. That should tighten about "*there.*" They went a little too snug on the musket. They want the "heft" of the bayonet where it is felched up to that end of the slot ; that it should fall down of its own weight. It must be a very nice fit.

Q. On that particular arm the ring upon the bayonet goes clear round?

A. That is imperfect.

Q. Still that is the standard arm that was furnished to the owners to make here.

A. When we have left those things so very nice with a little wear they get to be imperfect. The rejected musket is perfect. The standard arm brought here is rejectable.

Q. So you had bayonets that were sent back of the same sort that you find exhibited in that musket produced by the other side?

A. That was one fault. To have new clasps put on, they were not accurate according to our gauges. That is defective there.

Q. When you came to test your gauge upon them you found your workmen not as nicely exact as they should have been?

A. The trouble was not in the clasp, but in the bayonet. They allowed us to make some new clasps with some slight variation.

Q. What has been your experience with guards?

A. It has been very good indeed. Our first 2,000 we lost three pieces out of the lot. That is lost after they were finished. Three pieces out of 2,000 guards. I think we lost a trigger, one plate and a swivel.

149 Q. You had previously subjected them to your own inspection. How many pieces did you reject upon your own examination?

A. I don't know. I know about how many finished, because we had assembled them for an outside operation. A man in New York had some that were condemned. I had an order for 500, and a great hurry for it. We sent him 400, with the promise to send the others in a few days. That was put up out of rejected parts for a house in New York. We have made made about 7,000 guards; then we have parts not so far advanced in different stages—a good many of them.

Q. Made out of parts thrown out of work sold to other parties?

A. Yes, sir.

Q. So you worked off your own rejections on some other parties?

A. Yes, sir, at a reduced price.

Q. Did you state the number you sold?

A. We sent 400. I think we have turned in about 7,000.

Q. And so out of 7,000, you had some you rejected turned over, and the rest of those passed, with trifling exceptions?

A. Yes, sir.

Q. You have long had experience in this class of subjects. How long, to the best of your judgment, would it take a company, taking a contract of 25,000 Springfield arms, of the pattern now before you, to start an establishment entirely and put it operation, and

150 deliver muskets?

A. It ought to take a year and a half before they can do it economically. It can be done quicker, but with additional establishment; I mean begin to build the shop. That would not hinder at all in time. The machinery has got to be built at the same time.

Q. Now you make a remark which I wish you to explain. You

said to do it economically it ought to take a year and a half. Do you mean to say the more haste the less speed?

A. To a certain extent that will apply.

Q. Explain how you mean it. Is it in getting all the parts of the machinery to work in unison and harmony as a whole idea?

A. It takes rather longer to get up the tools than it does the machinery. What we call the small tools will take more time than it will the machinery. You can go to the different shops and get the machinery the same as for a cotton mill, and, perhaps, get that in less time than I spoke of. But if the machinery is got out, it takes a good deal of time to adjust the small tools to it, and arrange them. You cannot buy them.

Q. On that subject state to the jury what you mean by the word "tools." What do you mean by fixtures?

A. In the first place, to form the butt-plate you would want dies—swedges fitted into a block to block out the shape of the butt-plate. There are cutters to make to work it all over; jigs to drill through the various mills; taps, dies, runners, &c.

151 Q. When you speak of jigs and fixtures generally, are they expensive or not—expensive things to make?

A. Well, they will help make up the estimate of the $100,000 that I stated included in the fixtures.

Q. What proportion of it would the expense of making these fixtures, jigs, and tools to make up the work, bear to the cost of the machinery? In other words, would or would not those fixtures cost quite as much as the machines themselves?

A. I think not, sir.

Q. In about what proportion? How nearly?

A. That is a question that I have not thought of, of late, very much. I should think more than half.

Q. (Mr. Blake.) That the tools would cost half the fixtures?

Witness. For instance, you order a milling machine made at the shops where they are getting them up. They would get a perfect machine. If you could put on the milling of the lock-plate as well as the bayonet, it would take a fixture for each one, which they don't do where they build the machines; but if they did, it would add to the expense.

Q. Will the same fixtures that will answer to mill the hammer answer to mill any other part of the musket?

A. Some parts of the fixtures would answer for more than one plate. We put on what we term a jaw into the milling machine; on to that you might put different fixtures. But the middle part that held the lock-plate would not do for the hammer, and the mill
152 would be different. Very few mills would do for different parts. There is a mill with a flat surface that might be used to mill some other flat surface.

Q. How extensively have you been engaged in getting up machinery to make muskets under the Springfield pattern? Have you gone any further than the guard, bayonet, and ramrod?

A. Not any further on this pattern. We used to make the whole gun. Then we had the whole parts to make.

Q. When you stated that an establishment could be got under way for $100,000 outlay, you include building, machinery, and tools, so as to make 10,000 a year?

A. Yes, sir.

Q. Suppose the result to be accomplished, is not 10,000 a year but 25,000 in say 20 months or two years? Would that alter your estimate at all?

A. In one respect. It would take more machinery to make 12,000 than 10,000; and you would have to have it. It would not take one-fifth more, but it would take more.

Q. Suppose you had got to get up machinery to make 25,000 muskets, and have them delivered in twenty months from the time you commenced; you are assuming regular delivery—a capacity of 10,000 a year, and force in machinery as fast as possible in order to execute the contract and deliver 25,000 in 20 months. What would be the expenditure involved in such an enterprise as that?

153 A. It would be larger.

Q. Fix about what the outlay would probably be to produce an effect of that kind, having nothing on the day the contract was signed, starting from that to work out the contract.

A. I guess you could use up $200,000 pretty handy.

Q. Would you think $225,000 an unreasonable outlay to be expended in that investment?

A. I should think that ought to do it. My impression is that there would be a surplus left, but still I have not figured it. I might come to a different result. I could figure it out in time, telling what amount of machinery it would take for each different machine. I should not want to give an opinion.

Q. In order to produce a result of 25,000, you would have to get a sufficiently large amount of machinery to produce that result within the limited time that would be allowed you after you got the machinery started.

A. Yes, sir.

Q. You would not have but 6 or 8 months effective time to work in?

A. No, sir. When I said 18 months, I did not say anything to conflict with that. My estimate for $200,000 was to have a sufficient time to do it. A year is short time enough. There would not be but 8 months left under the contract.

Q. The annual profit on a concern of that kind would be inappreciable, would it not?

A. Oh! yes, sir.

154 Q. What prices are paid to you for the parts you make—guard, ramrod, and bayonet?

A. I do not know that it is a profit at all. The price we have is based on $16 to a gun. The proportion, according to the ordnance book, that a bayonet would bear to $16 to a gun, we have $2 for a bayonet, and for a guard, $1 30; for a ramrod, 62 cts.

Q. Are those prices profitable prices?

A. We are in hopes of making money out of it. We have not got one-quarter way on the job, and cannot tell how we are coming out. We expect to make something on it, if we are prospered decently well?

Q. Can the bayonet be made successfully to stand inspection of the same character that you make workmanship and stock for a dollar?

A. Well, I think not; at the present time at any rate.

Q. Could the ramrod be made for 30 cts., as Mr. Norris supposes?

A. Well, I should not want to take a job for that at that rate?

Q. And the guard at 60 cts.?

A. Perhaps we may not be aiming at the same thing. We expect to make a profit. If we had not expected to get more than the government, we should not have been patriotic enough to take hold of the job, though the country had wanted them. How much we shall make, we do not know. I have heard of parties that were making the bayonet for something less than we are. This may not be the fact, but I have heard that a job was let out at Norwich
155 for $1 60. We do not know how much it cost; we have not been into the calculation. We have a great deal of work commenced, more than we have turned in. We have turned in one-quarter of the job. If we had the inclination, we cannot readily stop and begin regularly.

Q. Have you anything to do with rolling the barrel?

A. I can state nothing about the amount of barrel iron in the country—nothing but hearsay. The rolling-mill has introduced a new kind of stock, a different style and shape and size from what it was when we were making barrels. I have wondered that manufacturers did not make more effort to supply the market with barrel-iron.

Q. In July last, the latter part of the summer, also the last year, on account of the great demand for machinery proper to construct fire-arms, were not the prices of labor very much increased in that department, and the great scarcity of skilled labor?

A. Well, I think it might have been increased some, and more particularly in the armory business, rather than in the getting up of machinery, although they are somewhat connected, and a great deal of it got in the armory.

Q. Is there an increase in the cost of labor in the cost of the gun? Do prices rule any higher?

A. I think workmen are getting higher pay.

Q. Could you say whether 15 per cent., 20 per cent., or more?

A. There is one class of workmen that there is no increase in. The majority of the hands that would be used in the armory are machinists, and so on, that can be picked up. The experienced
156 hands have been increased more than you mention, those that would be fit to verify jigs and gauges. It has been increased all you mention.

Q. What did you use to pay for die-sinkers; and what now?

A. The highest we have paid for die-sinkers is about $\frac{1}{3}$, or 20 per

cent. increase on that particular department. We formerly paid two dollars a day for the last six or eight years. We now pay two dollars and a half; that is an increase of 25 per cent.

Q. Do you know how many barrel rollers there were in this country when these troubles broke out?

A. I have heard that there was one foreman that had charge of the roll; he had another of the hands under him. I heard they sent for his brother to assist him to roll nights. I do not exactly understand that was necessary. For instance, probably if they had set an American to roll nights, the Englishmen would not have had to roll day times. Englishmen always have the name, if they have not the skill. If they have any skill that is not generally known, they are pretty close of it, and do not calculate to contribute it to every Yankee that comes along. He could not have rolled day times, if they had but one to roll nights. He was getting 5 or 6 dollars a day, and he did not care to communicate the secret. It is the same thing that the calico printers have been through in making their rolls; but the Yankees have got hold of it.

157 Q. It is a nice operation, I expect?

A. I expect it is.

Re-direct.

Q. Was there not a scarcity of that particular class over others?

A. In regard to die-sinkers, there is a scarcity of good workmen. They have worked in a good many of the jewellers shops, if their work was slack, and this was driving.

Cross resumed.

Q. What should you say was the percentage of wear and depreciation upon machinery per year. Take a quantity of gun machinery, start it in operation, and make 10,000 muskets a year. What at the end of a year will be the depreciation of value?

A. It will vary very much on machinery, but perhaps an average might give it. I calculate it would be 10 per cent. on the investment. Taking the establishment right through, building and all. On gun machinery, it might not be more than 5 per cent., and on tools more than that. I may be wrog. This is a thing I have not thought of much.

(This answer is defective, owing to interruptions.)

Q. What would it be on small tool, and cutters?

A. They would not sell for more than their weight, if they were not wanted; some of them might work in, but not very likely.

Q. Suppose at the expiration of the year of any one of these
158 contracts, at that time the necessity for arms to be manufactured by private parties ceased, the Springfield armory being able to supply all that was necessary, whereby that machinery could be put to no further use?

A. A good deal of it would work into machine shops and other uses, and a good deal would not. I have a little experience in that.

The machinery I took out to South Carolina, when I got to New Jersey, I sold for ⅔ of the original cost. We had used it for 3½ years. That was to be used for the Perry patent arm, at New Jersey. They started an establishment to make the Perry patent gun.

Q. There was demand for that kind of machinery a that time. Is not machinery adapted exclusively to their arms adapted to that as a whole?

A. The small tools are not adapted to any other arm; as a general thing, they would not be worth more than their weight. If fixtures cost about one half of what machinery would come to, there would be a loss of at least 33 per cent.

Re-direct resumed.

Q. Suppose that this company when they had got a contract to build 25,000, should get one for 25,000 more?

A. The tools would be very valuable to them.

Q. Would not the establishment be all the more valuable for being in operation, and all the things fitted and accustomed to it?

A. Some things would be as good as new, and others would not be good for much of anything.

159 *Examination of Ansel E. Bradley.*

Q. Where do you reside?

A. In Providence, R. I.

Q. Are you acquainted with the manufacture of fire-arms?

A. I used to work on them.

Q. On muskets?

A. Yes, sir.

Q. How long a time?

A. I worked on them 13 years.

Q. Was that consecutively?

A. Yes, sir.

Q. What arm was you making?

A. The Springfield arm, of the pattern they were making at that time.

Q. Where did you work?

A. At Millbury, Mass., for A. C. H. Waters & Co., the same that was referred to in the testimony yesterday.

Q. Have you recently kept up your acquaintance with this business?

A. I have been in the habit of visiting the shops perhaps once a year.

Q. What, in your judgment, is the cost of the manufacture of such a musket as stands before you—the Springfield musket?

A. Do you mean the labor and stock? According to my best opinion, I should think it would cost about $10.

Q. Your whole occupation has been connected with the iron business?

160 A. Yes, sir, until within two years.

Q. Something was said yesterday about guns that were not accepted by the inspector?

A. Such a per cent. in the ordinary course of business might be rejected to the contractors.

Q. A man who takes a contract for 25,000 must have some rejected for some cause or other; many serviceable and useful arms that might have been as good as that which was accepted. What would that rejected stock be worth ordinarily in the market?

A. It would be worth 50 c. on the cost of it.

Q. Do you know that at this time such stock as that is much higher than at ordinary times?

A. I know it is selling for three-quarters.

Q. Do you not know whether the Mexican government has agencies purchasing such stock in the city of New York, and otherwise?

A. I know it by report.

Q. You know at least that it is selling higher than ordinarily.

Mr. Thurston. That is, he reads the newspapers.

Q. About making different parts of interchangeable muskets in different places, and sending them together into one room, is there or not any difficulty, as a practical matter, in making those different parts of the lock, or any other part of the musket, any more than in the same shop?

A. I cannot see that there is; I know that they could be done, that certain parts could be made out of the shop; for instance, the
161 main-spring, scar-spring and hammer spring we used to make, were made at two or three miles from the village, while the other part could be made in the shop where we were. They used to come in for the purpose of drilling them; for nothing else.

Q. Is there any more difficulty in a man sitting at the marshal's desk and a man sitting opposite making the other? Would there be any more difficulty in separating them to the cities of Boston and Philadelphia?

A. I do not think there is. For instance, a man working at Springfield armory on certain parts of the piece has the tools and knows just how to make it. Move that man to Newport, and I think he could take the tools and make that thing just as well as at Springfield.

Mr. Flagg was asked by Mr. Thurston yesterday about the scarcity of this kind of skilled labor growing out of this particular juncture and the demand for these arms, but especially about the die-sinkers.

Mr. Thurston. I asked what price he paid them and how.

Q. Are there not at this time a great many die-sinkers who follow that particular part of the business?

A. There is, or has been, in Providence for the past year, to my certain knowledge.

Q. Should you not think that die-sinkers are as plenty now as at any other time?

A. I should think certainly they were.

Q. Most every jewelry establishment has die-sinkers, has it
162 not?

A. Yes, sir.

Q. A man who has worked at a jewelry establishment die-sinking, is he or not competent to work in the manufacture of fire-arms?

A. My opinion would be that he would work in very soon to be a die-sinker in the gun business; the work is different somewhat.

Cross-examination.

Q. When did your 13 years' experience in this business begin and end?

A. It began in 1833 and ended in 1846.

Q. Since that time you have had no connection with that kind of business?

A. I have not worked at the business.

Q. My question was, connection with the business—partner in any establishment interested in the construction of parts, or in any way?

A. Not with making guns for the government. I was connected with some of this contract work after that.

Q. What did you do in that direction? Buy condemned stock and put it together?

A. Yes, sir. With another man.

Q. What is sometimes called collecting gun swill?

A. Yes, sir. Such a one as you have got here.

Q. How long did you carry on that business?

A. I was interested in getting up some 300.

Q. How long time did that performance cover?

A. I should think it would cover less than 9 months.

Q. You collected and sold 300 of them?

163 A. Yes, sir.

Q. Rejected pieces from Springfield and elsewhere?

A. Yes, sir.

Q. What was the modal of Springfield musket made at Millbury, that you worked on from 1833 to 1846, called?

A. I believe it was mostly the old '22 pattern.

Q. The old smooth-bore of '22?

A. Yes, sir.

Q. That was interchangeable?

A. They used to think it was, but not so perfect as now.

Q. Do you mean to swear that a system of interchangeable parts had been adopted?

A. We used to think it was made so. They did not make them nearly as well; nothing like what they do now. They used to do it by hand; now they do it by machinery.

Q. Each lock, ramrod, or other part of the gun was the result of individual hand labor?

A. Yes, sir. To a great extent, in comparison with what it is now, it was.

Q. Were the barrels forged instead of being rolled?

A. The barrels then were welded under trip-hammers instead of being rolled out. You might properly call it forging.

Q. Rolled barrels were not known in this country at all, were they?

A. Not to my knowledge.

Q. What part of the manufacture were you interested in at Millbury, or connected with?

A. The lock-pieces of the lock.

164 Q. How many parts in the organization of the lock were made to compose the lock?

A. I was interested in making the screws and the hammer. The hammer is not on this gun at all.

Q. You made screws and hammers? Did you work on any other part of the musket except these parts connected with the lock?

A. I filed up some bayonets and occasionally worked on the guard.

Q. Was there any such thing known as milling the bayonet then?

A. There was not the blade. They milled the socket.

Q. Were not these instances of filing up the bayonet exceptional instances, and was not your general work that which you spoke of?

A. Sometimes I would work on bayonets when they were behindhand and I was ahead. I worked a week at a time. I answer your last question by a "Yes, sir. Substantially."

Q. Were there any other parts of the lock that you were in the habit of working upon with the exception of those parts you have just named?

A. In the same connection that I worked on the bayonet, and the same sort of answer.

Q. Were you at work as a journeyman, foreman, common hand, or what grade?

A. I worked in the first place and learned my trade. I went from that into the piece shop, and had the same as others did for doing the same work.

Q. Where did you learn your trade?

165 A. At this place.

Q. You worked how many years as an apprentice?

A. I worked three years, and with this concern.

Q. Then you went into the piece shop?

A. Yes, sir.

Q. Was all their work done by piece work?

A. Pretty much all of it.

Q. Then you worked as a job hand, during the rest of the time, as the other common operators in that establishment did? Did you at any time have the superintendence of any part of that establishment?

A. Nothing more than the work that I did.

Q. You have mentioned the opinion that the cost of the musket is about $10? Whence do you derive the information necessary to form such an opinion if you have had no experience in the manufacture of arms whatever?

A. I ventured the opinion, knowing what they used to cost then, and comparing what I thought the work they are doing now, with the improvements they have made in machinery, could be done.

Q. Is it anything more than venturing an opinion by comparing work utterly different in its manner of construction at the time you were connected with the business?

A. No, sir. I do not pretend to know so much as the men who have been on the stand.

Q. Did you ever have occasion to know, while you were in that shop, the cost of all parts of the musket?

A. Yes, sir. I used to calculate them.

166 Q. What did one of those old smooth-bores cost?

A. We used to calculate then that they got them up for about $9.

Q. This was what you understood in the shop, not from calculations of your own?

A. I used to make some calculations myself, and others I got from the other men. Never knew from experience what the different parts would cost.

Q. You think as the old work cost $9, the improved process of making them, introduced since, would bring the price up instead of down?

A. I think stock and the price of labor now is a little higher than it was then.

Q. You have also been asked upon the subject of die-sinkers out of employment? Can you state, as a matter of fact, what the price was paid to die-sinkers before July, 1861, and the price now paid to men to work in that department?

A. As a matter of my own knowledge, no, sir. I know nothing of it only by report.

Q. Is not the extent of your knowledge by report limited to this: that many persons connected with the jewelry business now have found, in the cessation of their business, employment in the manufacture of arms?

A. I know that they do, and have heard that jewellers say of good die-sinkers that they would be glad to get work for one dollar every day during the last year.

Q. Did you know of a single instance where a single man

167 working in that mystery has been employed at that price?

A. Not any one. I have heard say that they are; I do not know how good it is, only by reputation.

Q. You have also expressed the opinion that it would be quite as easy, in your judgement, to make the different parts of a musket at a considerable distance from each other, as in different cities, as it would be to make the same parts under the same roof?

A. I honestly think it would, sir; should have no fears of attempting it myself.

Q. I will ask you in the first place, upon that matter, whether, if you are able to state how the fact is in an interchangeable arm, if all the parts of that arm must not be interchangeable with the corresponding parts of every other arm of the same pattern?

A. Yes, sir.

Q. Now, in order to make each one of these parts, you understand, do you not, that they are to be decided in all their dimensions by appropriate gauges?

A. Yes, sir.

Q. The various parts of a musket when organized together are manifestly composed of several independent machines?

A. They are.

Q. The bayonet may be set down as one machine, the lock as another, the stock as another, the guard and its appurtenances as another.

168 If contracts were issued for each one of these things separately—separate machines—each contracter would see that his part only was perfect. Would he make any reference to the question whether his part was perfect as respects the other parts of the organization?

A. Each man making a different part would have a sample to work from, and if he made that work according to the sample, it would fit, and if he does not, it would not.

Q. Do you mean to use the word sample?

A. I mean model.

Q. Has any one of those sub-contractors to your knowledge been furnished with a model?

A. I expect they have; I do not know anything about it.

Q. If they have no model, but work merely to a pattern, which pattern is not mathematically exact, is there not therefore the greatest probability of error when the whole are brought together?

A. If they have a model or sample gun to work upon which is imperfect, of course your gun would not be perfect if you made it from it.

Q. Have they a model?

A. I cannot tell whether they have or not.

Q. Have you not been told there are but two models in this country?

A. I have been told, when they sent them, for instance, to Millbury, a barrel and a bayonet, for instance, that they considered correct enough to make them by.

Mr. Blake. When you speak of a model you are referring to a model gun.

Mr. Thurston. Just as the government has a standard of

169 weights and measures kept in the department, but not to go round the country.

Witness. You make the same distinction between sample and model that I do; I do not think the sample would come up to the model gun—not so perfect a piece—not unless they are better than they used to be when I worked upon them.

Examination of Fred'k W. Cammann.

Q. Where is your residence?

A. In the city of New York.

Q. Are you interested in contracts for the making of the Springfield rifle—contracts from the United States, at the present time?

A. I am interested in two contracts to the extent of 45,000 guns, one of 20,000, and one of 25,000. I have the refusal of two others to the same extent; I do not know whether I shall take them or not.

Q. You are interested in two contracts, one for 20,000, and one for 25,000 ?

A. Yes, sir.

Q. You have the refusal of what amount?

A. I can control, if I wish to, to the same amount.

Q. How long have you had the control and been interested in the first two that amount to 45,000?

A. One since December and the other for six or eight weeks probably; one from the time it was taken from the department in December last, and the other for about six weeks.

170 Q. During that time since December last, have you or not, in the transaction of this business, been in contract witht he makers and builders of muskets, armorers, &c.?

A. I have made very diligent inquiry since last fall in regard to the cost of making these guns, and have employed parties to get information, and have obtained a good deal myself in regard to it, so as to satisfy myself in regard to the cost of the gun.

Q. What do you find as the result of this business and inquiry that you can get your guns for?

A. The guns, sir, will cost from $14 to $14 50; that is, in buying the different parts from those who make them, or manufacturers of the different parts.

Q. Let me see if I understand you. Take the contract for 20,000 muskets which you had. Do you mean to say that you could have those guns made and delivered to you to be returned to the government for $14 or $14 50 per musket?

A. It would cost me, buying those parts and assembling them myself, or under the direction of some one competent to attend to it.

Q. Do you mean by this that the contract price with the government was $20, or any other sum above $14 50, would you have as your part all over and above $14 or $14 50?

A. Yes, sir.

171 Q. Then you mean the price you have mentioned, $14 50, includes the profit which the manufacturer has for his part, in making the different parts of the whole musket?

A. Certainly, sir.

Q. You would be able to dispose of one of these contracts without any toil or expenditure on your own part whatever, by having muskets furnished to you at $14 or $14 50, you being at no expense?

A. I do not say that. I should have to buy a contract for those parts, and should have to have the gun assembled. No one would give me that amount of profit to do it for themselves. It might be done by a large armory, otherwise not.

Q. Suppose, for instance, one mechanic should take 20,000 locks, and parts of this musket that is to be assembled. Does he or not receive his profit on this price of $14 50 for a musket?

A. Unquestionably, sir.

Q. In the course of your prosecuting this business, have you knowledge so far as to be able to state with confidence whether the parts can be made in different places and the musket assembled ?

A. I think they can without difficulty. That is my impression. I have so little doubt of it that I mean to try it myself. In fact, I do not consider that there can be any doubt that parts can be made in the country, and can be purchased, and the guns assembled. I have not done that myself; I am going to try to do it.

Q. Have you ever seen any guns assembled from the dif-
172 ferent parts that have been made in different places?

A. I cannot say that I have seen a gun. I have seen at Sarson & Roberts, who have a contract in New York guns which have passed inspection, but they were about delivered. Whether they made all the parts themselves, I do not know. I know they manufactured extensively themselves.

Q. How long ago?

A. Within a week.

Q. Do they not, as a matter of fact, have two manufactories, one in New York, and the other in Philadelphia?

A. I do not know, sir. They don't make all of them in New York. They employ Mr. Brown for the finishing of the barrel.

Q. Do you know whether or not, as a matter of fact, they make the different parts of these muskets in different places, or whether they are all made under one roof, or in different establishments?

A. I don't think they are made under one establishment. I really don't know. The barrels are furnished by Mr. Brown, of New York.

Q. Do you not know whether the barrels are finished?

A. Yes. The barrels are finished by Brown, in New York.

Q. Is that separate from this establishment?

A. Yes, sir; they have made a contract with ————.

Q. How about the sight?

A. I am not sure whether they make their own sights or not. Mr. Brown makes the sight; whether they buy them of him or make
them, I cannot tell you. Brown has a great many on hand. I
173 will correct this: Brown told me that he did make their sights; told me he had furnished them, until recently, with 3 or 4,000 sights.

Q. You have stated that you saw no practical difficulty in making different parts of the musket in different places, and assembling them together in one room, so as to pass the inspection of the United States. What, as you understand it, are the requisites in the arm in order to enable it to pass inspection from the United States under these contracts, which have been and are now being issued for the manufacture of Springfield rifles for the United States?

Mr. Thurston. If he has any practical knowledge of the way tests are applied, he may testify.

Court. I do not consider him as an expert in this matter.

Mr. Bradley. Our point is this: We have had a good deal said about this, that it was necessary to have the gun conform to a certain model, of which, we have been told, we have in this country but two. We have had a great deal of time consumed in endeavoring to show that there was one or two—it is immaterial which—perfect models, costing a good deal of money, up to which all these hundreds

and thousands of muskets have to be conformed. The language of the contract shows the reverse to be the case. We stated, among other points, that the contract binds the said company and its assigns
to deliver 25,000 of the exact pattern of the musket made at
174 the Springfield armory, according to samples to be furnished to the contracting party.

And when Mr. Bradley was upon the stand, and said they were made according to samples furnished to them, the gentleman laughed that they should be according to the samples. This is a practical business and not a mere piece of fancy mechanics. "All and each of the 25,000 muskets to interchange with each other and with Springfield muskets;" "and to be subject, before receipted for and payment made therefor by the U. S., to the same inspection of U. S. inspectors as the muskets at Springfield armory are subjected to. And any of the aforesaid muskets to be inspected which do not in all respects, particulars, and pattern, come up to the standard of excellence that is established by the U. S. armory, (which is to be determined and decided by the U. S. inspectors,) shall be rejected." —(p. 36.) They have to be made as good as Springfield muskets, and pass inspection as Springfield muskets. Not a word about that model—imaginary perfection. I wish to ask this person what this standard was. You speak of the Enfield standard; you do not speak of the model Enfield rifle?

Court. The only question is whether this gentleman has this knowledge.

Mr. Bradley. It is really with that view that we bring the matter before the court and jury, in chasing what seems to be an imaginary excellence.

Mr. Thurston. I am very glad that the gentleman at this time has raised one of the most material questions that will be in-
175 volved in the whole controversy. It is as good a time now as any other to draw attention to a point which by and by will become of a great deal of importance. Some time and toil has, to the experience of many of the parties, been spent in ascertaining to what degree of perfection it was necessary for parties under these contracts to arrive. It is of the utmost consequence to determine whether it be a fair comparison to say that they can make a large profit by assuming the cost of different contracts from different contracting parties, without paying any attention to the degree of excellence required from the whole organization. A contract, as the gentleman seems to suppose, does not involve that degree of excellence which we know outside of evidence, but which we know also from the evidence in the case properly admissible, is required of it.

We are to look at the written contract and see what we are called upon to do. And let me inquire which is true, the imagination which the gentleman attributes to us, or the imagination—fancy—which he has employed. The learned counsel is too well versed in his profession not to understand the true interpretation of this instrument: "And said company binds itself to furnish, &c., 25,000 muskets of the exact pattern of the muskets made at the U. S. armory in Springfield, ac-

cording to a sample furnished to the contracting party." The model
is not, as we have learned from the evidence, furnished, and
176 cannot from the nature of the case. A sample or pattern only
is furnished, but is it sufficient to work up to that sample? The experience of these men in this matter has told them, no. Does the contract say otherwise? and if it did, and they were private parties who were contracting here with us, we would have our remedy if they unreasonably refused to furnish us this model, and could employ it in a court of law. But the other party to this contract is a sovereign power, subject to no suit, and liable to no claim for damages, and though we have in case of unjust treatment, an imaginary remedy by appeal to the legislative power, yet on the question of the construction of a contract made between the sovereign power and ourselves, we are obliged to take into view the rules and requirements of the government. But where we find those requirements expressed in the instrument, in the further language which is here stated, it leaves no doubt upon the mind as to the nature of the contract. These parts are to interchange in their similar parts with each other; and by the word interchange we understand interchange fully and completely, not merely being capable of being put together somehow, but interchange with all other parts and with the Springfield muskets, and to be subject, before receipted on payment therefor by the U. S., to the same kind and degree of inspection, by the U. S.
inspectors appointed for the purpose, as the muskets made at
177 the Springfield armory are subjected to. Now, therefore, we
stand in this position. It is conceded upon all hands that the U. S. government, in the first instance, at an expenditure of $10,000, made three arms and three sets of gauges. One set of these gauges and one single gun only is available only for the purposes of examination merely in a particular room in the Springfield armory. The other set is in the Ordnance office at Washington, and the third set is at Richmond. Now, the standard which has been established as the model standard for work that is made for the Springfield armory under their roof subjects each of these various parts of the musket, in each arm turned out by their operatives, to an inspection, to bring it up to the model standard. They have their model there; they work to it. That is what it is for. For your honor will at once say that this government, in all its folly and extravagance, would not be so ridiculously foolish as to expend $10,000 for a fancy purpose for something to look at, if it were not for making a standard, whereby all parts interchangeable could be tested. This decree of inspection which we contend for is the degree which the Springfield arms are subjected. They are subjected to an absolute standard. We have to come to that standard. In order to arrive at that standard
we have to employ the means to obtain the accurate instru-
178 ments capable of producing that result, which, from the nature
of the case, is extremely difficult to acquire; and from that showing and the reading of the contract, is it true that we are starting a mere imaginary idea here, or that, in truth, this government will receive, under the terms of this contract, weapons which are

subjected to the inspection like in all respects to that which the Springfield arms are subjected to, but to an inspection which will determine that are tolerably good weapons? Is that the interpretation of this contract? We know full well what we have been subjected to where these guns are delivered, and it is our duty to make it known here.

Mr. Bradley. I do not propose to discuss this, but merely to say that the duty of these manufacturers is not to make a gun in precise accordance with this model, which is perfection itself. But they have got to make it so that it will pass the inspection which is applied to Springfield muskets, and made according to certain samples furnished by the contracting parties. It seems to my humble appreciation a matter of the plainest common sense, and of the soundest law, that it is not possible, by the construction of this contract, that the gun shall be made to correspond with this imaginary model.

Mr. Payne. It is not an imaginary, but an actual one.

Mr. Bradley. The government does not undertake to make all its muskets in precise accordance with the model, which would
179 really make them models themselves.

Court. The question is not merely a dispute about words. The government gives out a sample to contractors who are bound to work by that sample. When they carry their guns to the inspector, the question is what he is to do with them. He is bound as they are by their contract, that the guns shall pass his inspection precisely as he would pass a Springfield gun, and no more. The question is, What does he do? Does he require the Springfield gun to come up to that model?

Mr. Bradley. That is precisely the question we were to put to this witness, to show the difference between making a gun practically and making one according to this model.

Mr. Thurston. The gentlemen are proposing to contradict testimony of their own. Their expert examined yesterday, stated that the largest possible variation that could be allowed was $\frac{25}{1000}$ of an inch, which is equivalent to $\frac{1}{40}$; that he considers an immense variation. The variation he said was not from the pattern, but a variation from this exact model. He further said, that for a variation in any material part (there are some parts that are not material) for a variation of one $\frac{1}{1000}$ part of an inch he would reject the work.

Mr. Payne. The test is whatever the U. S. inspectors require. The musket manufactured at Springfield is the one required
180 of us. That is the test under this contract. Now, what that is, is a matter of proof, and the gentlemen have put a witness now on the stand whom the counsel on the other side himself agrees has no information that will enable him to answer the question.

Cross-examination.

Q. (By Mr. Thurston.) Was your first acquaintance with this business in December last, or some two months earlier?

A. Yes, sir.

Q. Your business before that was what?

A. Nothing in particular. I was doing nothing.

Q. Your mind was free to take in the whole of this subject. Have you any practical acquaintance with the manufacture, under your superintendence or otherwise, of any of the parts of a musket?

A. No, sir.

Q. You have a contract you say for 45,000. Were those contracts issued to you as a party of the second part? In whose name do the contracts run?

A. The one of 20,000 is in the name of James B. Murray, of Norwich, Ct. It was got out in his name. The contract for 25,000 is in the name of Professor E. K. Eaton, of New York.

Q. Is Mr. Murray retired from the business?

A. No, he is still interested with me.

Q. Then you are jointly concerned in the business together?

A. Yes, sir.

181 Q. Did Professor Eaton sell out his contract to you, or is he interested with you?

A. He is interested; not in the manufacture, but in the profits—interested in the profits solely.

Q. Are there any other parties interested?

A. Mr. Cyrus W. Field, of New York, has a small interest.

Q. Is Mr. Schenck or Mr. Gallager interested in any of them?

A. No, sir.

Q. Your plan is to have the different parts made, if I understand you?

A. Yes, sir.

Q. Have you contracted for all the different parts?

A. No, sir.

Q. In all these gentlemen you have named as connected with these contracts, is there any practical manufacturer of guns interested?

A. No, sir.

Q. To what extent have your contracts been made for the parts of the musket—$\frac{3}{4}$ of the parts contracted?

A. No, sir; I have not absolutely contracted for any part.

Q. On any of these contracts?

A. No, sir; I could have done so 4 or 5 months since, but I have saved money by waiting.

Q. Do you mean that you have offers for contracts?

A. Yes, sir; I was offered the stock 5 months ago at $2. I can get one now for $1 70. That was not perfect. There have been great improvements made recently.

Q. It was Mr. Storer that offered you this stock?

A. I have been offered stocks by Storer. I have been offered them by other parties—parties that have as good machinery as Storer. They claim it is better.

182 Q. Well, then, in order to get at the exact truth, so far as any experience with this matter is concerned, in any direction, you stand now just where you stood when you went into this business, except such information as you have picked up from inquiry since?

A. No, sir ; I have the refusal of certain parts of the arms.

Q. So far as practical knowledge and experience is concerned, derived from contracts made with others, or in any way, you stand now as before?

A. Before the contracts I never had seen the Springfield armory. Since, I have been there several hours and gained a great deal of information. Seen a great many parts of the arms which I had not seen before.

Q. I will not ask you as to the grounds upon which you form the opinion of the cost of the musket, but pass over—

Mr. Bradley. We use this witness, not with any pretence that he is an expert so far as the manufacture of arms is concerned, but that he is properly qualified to give an opinion as to its probable cost.

A. I have been offered them at his rates. I have made the offer to Brown, for his establishment for barrels in New York, because there is difficulty in obtaining proper barrels—the proper finishing of them. I have made him an offer to have it under control of parties who made him an offer in the matter.

Q. Wont you inform us what that difficulty is?

183 A. At the present moment there is a great deal of loss of manufacture to the rough barrel in finishing it, but I have the refusal of barrels from England, and also have the refusal of some barrels from Mr. Washburne.

Q. Is not that difficulty in obtaining the proper barrels and in the finishing due to the fact that in the finishing defects in the material are disclosed?

A. Yes, sir ; the iron is not sufficiently soft and pure and uniform.

Q. Have you not learned that the only description of iron practically available for manufacture in barrels, in any considerable quantity, is the Marshall iron, in England?

A. The Marshall iron is generally used. There are two : one the Wm. Marshall, the other the John Marshall. Some contend that the Wm. is as good as the John. There is iron used at Birmingham which is said to be better than either.

Q. The John Marshall iron—has that other iron been used in this country?

A. It is undergoing a test in this country.

Q. In the Springfield armory what kind of iron do they use?

A. The John Marshall iron. They have made barrels, made by Washburne, a great many.

Q. You have made some arrangements with Mr. Washburne, of Worcester. Do you know how Washburne came out of those experiments he made?

A. The difficulty is in obtaining good iron at the present moment. It may be overcome.

Q. It has not been overcome as yet, has it? And has not

184 Mr. Washburne made large contracts, according to the knowledge and information you derived from him, with individuals for furnishing them with quantities, all of which he is unable to supply, on account of his experiment proving a total failure?

A. I know he made large promises.

Q. He has not been able to fulfil them?

A. I think he has not succeeded thus far in making barrels to any extent.

185 *Examination of Thomas Warner.*

Q. (By Mr. Hazard.) What is your age?

A. 68 years.

Q. Where is your residence?

A. My residence is in Springfield; my formal residence is there; I am at present in Millbury. Springfield is my native place.

Q. Are you acquainted with the manufacture of fire-arms?

A. I am, sir.

Q. How long ago; when and where did you commence?

A. I commenced filing locks in the Springfield armory, or learning to file, when I was 16 years old or a little past.

Q. That would be in 1811?

A. About that time; perhaps exactly.

Q. How long did you remain in the Springfield armory uninterruptedly; to what date?

A. Up to 1843; 32 years, or about that.

Q. Are you still employed in the manufacture of fire-arms; you went there at 16 years of age to learn the trade of filing locks?

A. Every man filed the lock entire with the exception of the spring. I worked at that some 7 years, perhaps; I was then appointed, (continuing in the armory all the time,) proof-master by the gov't of the State of Mass.

Q. What is proof-master?

186 A. There is a law in the State of Mass. that any one who manufactured barrels must have them proved by a proof-master who understood the business, and have them examined to see that they were safe to go out; he put his stamp upon them. Any man who bought or sold a gun without that stamp upon it was liable to a fine. After 5 or 6 years I was transferred from the hill to the water-shops, where there was different kinds of work going on from what there were on the hill. I worked at almost every branch. I commenced on the hill with hand work, then I went to the water-shop, a mile and a quarter or two miles below. I worked through the whole armory, from head to foot. In 1829 I was appointed inspector at the upper water-shops, where all the work passed through with the exception of the stock; all the other work came under my eye.

Q. Machinery and tools also?

A. Pretty much all the machinery and tools, not all, because there was some at the middle and some at the lower water-shops. In 1833 I was appointed contract inspector of U. S. arms by the government, or what is termed U. S. contract inspector.

Q. Your appointment was from the gov't of the U. S.?

A. They involved detailing me from the Springfield armory; after

I got through with my inspections, which would last three or four weeks or a month or two, I went back and reported myself at the armory, and supposing I had not work in immediately, I went to work in the armory to inspect there. That was the system the government adopted, thinking it would carry into the contractors
187 the ideas from the Springfield armory, and be a benefit to the contractors.

Q. That was the idea of the Ordnance department in having the inspectors detailed from the armory. You were liable to be transferred to the Harper's Ferry armory?

A. Not then, sir.

Q. Will you tell the jury what your duties were in that office?

A. The same duties that devolve upon the inspectors at the present time: to inspect every part of the musket, pistol, sword, accoutrements, &c., or whatever may be presented.

Q. You would leave the Springfield armory to-day and go on a tour of inspection; would you go to the place where the contract was for making arms? Give us a little idea.

A. I would have orders from Major Craig, who was then superintendent of contract inspection; he would order me to Millbury, Middletown, Pittsfield, to go and receive what arms they had in readiness.

Q. Then you inspected them, and they were received by the government?

A. Yes, sir. They inspected them, stamped them, put on a small initial upon every part; on the stock two larger initials.

Q. How long did you hold that office?

A. Up to the early part of 1837. I then was appointed master armorer of the Springfield armory. That situation I resigned in 1843.

Q. Will you tell the jury what the master armorer is?

188 A. The master armorer is the chief inspector of the arms manufactured and of the material prior to its being manufactured. Everything is referred, if there is any doubt existing by the inspector, to the master armorer; so that the master armorer is not only inspector, but his duty is to see that the parts are kept in a regular state of apportionment, not that there should be 10,000 of one part and not one of another, all these are to be kept regularly along.

Q. Who was the superintendent?

A. Mr. John Roff and Major Ripley, (now Gen. Ripley.) I was with him about three years.

Q. In 1843 you resigned your connection?

A. I went to the Whitneyville armory, near New Haven, and took a contract there for the making of the U. S. rifles. In the same year, 1843, I was appointed by the gov't of Mass. to make a survey of the Boston and Cambridge arsenals, and report on the same, which I did in company with another man.

Q. What did you have to inspect—not only the building, (of arms,) I suppose?

A. Everything; all the ordnance, projectiles, grape shot, round shot, cannon, tent poles, accoutrements, guns, muskets, heavy ordnance. In 1846, just at the commencement of the Mexican war, Mr. Colt came to New Haven and wanted to get us to undertake to manufacture a thousand of his revolvers, which went through New
189 England, as he told us. When he came we agreed with him, (Whitney and myself; I had a lease of his armory, therefore he had to agree with me.) We agreed to manufacture a thousand of Colt's revolvers, holster pistols, if you please; we agreed to do it in six months. We accomplished the thing without a model or anything else, upon our own executive knowledge. They were for Capt. Walker, of the Texan Rangers; he made a contract with Sam'l Colt, a copy of which I had in my possession at the time the contract was made.

Q. Was that or not the commencement of Colt's success in the arms?

A. I should think it was, for he was not worth a cent at that time, and his reputation started then; that was the base, as any one supposes that knows anything about it, from which it has been built to the eminence it now stands on. He brought in a thing there and flung it into a basket as I was writing. He said there are your models, but we did not work after a single thing in it. We made the model ourselves; this was in 1846. The pistols went to Mexico at that war. After I got through with those contracts, this with the government and also Colt's, I was written to by Mr. Ripley, of Hartford, and Mr. Clarke, who has been a representative to Congress, to go to Hartford and finish off a lot of fancy sporting rifles. We finished out what we had of the famous Wesson rifles. Of course I did not do it myself. The Mass. Arms Co. came to me and wanted me to look out a site
190 somewhere to locate a manufactory of Wesson and Leavitt revolvers. I went to Norwich. I located and started the manufacture of this pistol at Chicopee Falls.

Q. This was in what year?

A. 1849, I think.

Q. You are still engaged in the business?

A. I am, sir.

Q. You have attended during this trial, during the examination of witnesses?

A. I have been in the court-house most of the time.

Q. You heard Mr. Lehman's testimony; you know him?

A. I knew him 20 years ago in Philadelphia, when I inspected in the contract service. I saw him there as workman.

Q. What does it cost to make the Springfield rifle, such as is called for at this time. What will it cost for labor and materials?

A. I should say it will come within ten dollars.

Q. How much within that?

A. Perhaps 10 or 15 cents; I have not gone into it in detail, but I think it can be made for that.

Q. What does it cost to make them at the Springfield armory at this time?

A. Mr. Allen told me it cost within nine dollars.

Q. Have you considered this subject deliberately and carefully since you have been in attendance with reference to this cost of the musket?

A. Yes, sir.

Q. You give it as your best judgment that the arm can be made entire and perfect within ten dollars?

191 A. I think it can, sir.

Q. A good deal has been said about the interchanging musket. As a practical workman manufacturing fire-arms, is there any difficulty in making the different parts of interchanging muskets in different places, and assembling them together and making a perfect musket, one which shall pass the inspection of the U. S. as easily as if made under one establishment? Is there any practical difficulty in the way of it?

A. I do not see any myself. I do not know why if one man works there and another here, one is filing a bridle and another a sear, they both have tools to perform that work—I do not know what difference it would make to that man if you were to transfer him to Harper's Ferry armory, if there were such a place, or to Providence. I do not know as it would not produce the same article with the same means; there is no connection with him and the man under the same roof at the armory, any more than if they were at different places. Those two, each one does his own work without reference to the other. There is no practical difficulty. The transportation would be some inconvenience. As to doing the work, I cannot see any difference in the world.

Q. Do you know anything about interchanging system, any more than any other person? Who introduced it into the Springfield armory?

A. I introduced it and carried it through. In 1853, before a commission was appointed to investigate the affairs of the Spring-

192 field armory, when Gen. Stevenson was appointed chairman, he said, the evidence was, it was Mr. Warner.

Q. What year was the interchangeable system introduced?

A. We commenced in 1839—commenced the tools; made but little progress that year.

Q. Was there anything of the kind in the Springfield armory before that time?

A. No, sir.

Q. With whom did you confer—what U. S. officer—in embarking upon this enterprise?

A. I first conferred with the superintendent of the armory, he not being a mechanic at all, a fine man; he used to preach sometimes.

Q. I want you to tell us about the mode of inspecting arms. You are as familiar with it as Mr. Lehman. The gov't of the U. S. had three models made—one at the Springfield armory—and three sets of gauges accompanying them. You have acted in the capacity of inspector yourself, and have seen a great many others. Tell us

whether every musket is expected to be precisely and exactly like the model?

A. The gauges were all got up under my direction; not those they are now using, but those that were similar, and the receiving tools. There was not a receiving tool ever used till I got them up, and designed them myself.

Q. And the mode of inspecting the musket was referred generally to the master armorer?

A. The application of the gauges was referred. I know I had
193 a good deal of thought about it, where was the best place to apply the gauge—to the barrel, for instance. There under that socket should be very nearly the size of the model; if it did vary much it would be rejected. But then when you come up here to apply your gauge, if it should vary half an inch, either up or down, I suppose there is no inspector in the world that would condemn the barrel, or have it altered; but if he were to come here, where it is necessary to the cone to get it nearer the size, then they would require a little more accuracy; and so with the lock-plate.

Q. Give an illustration of the application of the gauge to it or the lock.

A. On the lock-plate, if the gauge should come a little loose. It is not a very difficult matter to get a lock-plate like that to suit the gauge as nearly as they can coin money. Around the edges it is not difficult at all, after having once obtained the proper means of making. We will say, if we had two clamps to come up "so," the edges of them exactly the form of this plate on the outside, and the outside of these jigs were as hard as a diamond, (if any such thing can be,) and they are made of steel and case-hardened, consequently they cannot be worn off easily by the file or in any other way. You put that plate and clamp it up "so." These jigs are of the thickness of
the lock-plate, or a little thicker. The edges before that are
194 milled off—put into a machine and milled off, or cut off with what they would term a profile machine, or some other machine, near enough to put it into these jigs. Then the filer takes it and puts it into this and jigs it down. If it does not happen to be done to these jigs, it is almost a perfect thing on the egdes or thickness. Anybody will see it is not as difficult a matter to get it precise as many would imagine. The bore of the barrel is another thing, where there is a latitude given. It is $\frac{1}{4}$ of $\frac{1}{100}$ of an inch, as stated yesterday. Let a man put the steel plug in, and let it be that bigger than the plug and hold it up to the light, and any man who did not know would say that it was nearly $\frac{1}{10}$ of an inch bigger than the plug, when in fact it would not be but $\frac{1}{4}$ of $\frac{1}{100}$ an inch, and that is a great deal when you come to apply the gauge; and when you come to work down to the jig, there is not scarcely any variation. We will take a gauge and put in a piece of paper under it. It is a great variation. When we come to mill a tumbler to the lock we can fetch it almost to perfection. There is not that difficulty attending it that many would suppose. It is mere carelessness generally, why this work is condemned. There is no more work con-

demned under the present way of working than would be under the old hand system. There was not during my experience at the Springfield armory.

Q. What proportion was condemned there when you were
195 master armorer at the Springfield armory, from 1837 to 1843? What proportion should you say? Because you had this system in 1837; had it in '39 and '40. What proportion would be condemned under the old system?

A. I do not know as there would be any real difference, there are so many ways that work files or the barrel files. Almost all of the condemnation is on account of the stock. The bayonet is on account of stock, but not so much as on account of workmanship generally. With any good material a good workman can make a good article.

Q. What variations are allowed in muskets presented for inspection and acceptance by the U. S. inspectors, between the muskets presented, the standard and the perfect model?

Mr. Thurston. If Mr. Warner knows from his own experience from the armory now what the rules and tests applied are now, he can properly state it. We shall call officers of the armory upon that point. I shall object to his stating what the practice was for what it is.

Q. What is your knowledge upon that subject since the present arm was made and used?

A. I do not know that I have any particular knowledge, but I know what the regulations were. The ordnance manual did not alter, and I do not know that the mode of inspection has been altered these twenty years. I do not know that it has, but I should presume that it has not.

196 Q. Do you know whether it has or has not?

A. I do not know, sir. The ordnance regulations have been out for quite a number of years. They have been out I guess 25 or 30 years ago. But the ordnance manual is somewhat similar, if not exactly like the ordnance regulations. I do not know; I cannot say as to that.

Mr. Thurston. These defendants are making under an ordnance manual issued in 1861. That is the ordnance manual they are guided by.

Witness. The application of the gauges to this barrel I don't know, as they have altered them. I don't know but they have.

Q. Considerable testimony went in yesterday about the rejection of arms manufactured by contractors for one cause or another. You say that a very fruitful cause is the material. But from whatever source, what is the value of these rejected arms to the manufacturer at the present time, and what is it ordinarily? Suppose, for instance, 50 muskets out of 1,000 should not be passed, what is the value as an ordinary thing?

A. Well, from my experience, I do not know myself, for I have not sold any, but I have heard from a man who has sold them.

Mr. Thurston. That is rather remote.

Witness. I think it would be worth, if finished, at the present time I should think it would be worth from 50 to 75 per cent. from the original cost.

Q. Is there any unusual demand for arms at the present time?

A. Yes, sir, I know that pretty well.

197 *Cross-examination.*

Q. You said that, in your judgment, the labor and material which compose a musket would cost $10?

A. Inside of that a little.

Q. Did I understand you as saying anything about the cost of arms at the Springfield armory?

A. I do not know what the cost is at the Springfield armory. I only know from Mr. Allen's statement that it is about $9.

Q. As examining the Springfield arm as an expert, you would say that the cost would be about $10, labor and material. Does there enter into the calculation the interest upon investment, capital, money invested, money in tools, machinery and building? Did you make any allowance for that?

A. No allowance for interest on investment.

Q. Do you mean to say then, that if a man has an armory all furnished to his hand, with machinery, tools and everything complete, descended to him from inheritance, that he can start from that point and grind out muskets for inside of $10? Now, if there is an investment involved of $500,000, of course, whatever his interest upon that investment is, is to be added to the cost. Now, sir, you said you make no allowance for interest of investment. Do you make any allowance for wear and tear of machinery?

A. Yes, sir, tools, &c. If I took a contract from any company to produce a lock, I should expect to keep my tools in order. I calculate that this will cover the expense of wear and tear of tools

198 and machinery.

Q. Do you make any allowance in your estimate of $10 for the cost of inspection?

A. Yes, sir; not for the inspector of the U. S., but for the inspector in the shops.

Q. I don't mean by my question what it might import—money paid for the wages of inspectors—but the cost of inspection growing out of rejected work, or the refitting of the work to make it correspond.

Witness. Do you mean the U. S. inspectors?

Mr. Thurston. The idea I mean to convey is this: There are a thousand stand of arms to be inspected; the 1,000 stand are to be completed at a price of $10 each; they are presented for inspection; the gov't inspector comes at the charge of the U. States, at their expense, and examines and inspects each one of these muskets, and a proportion greater or less is rejected. That is what I call the cost of inspection; it is an incident to the inspection; of these only 950 are received. Now, do you make any allowance in the $10 for that incident in the manufacture?

A. That did not occur to me; I did not suppose it was necessary; it must be very little.

Mr. Blake. You mean when the gov't make an inspection and throw out some, if he includes the loss on those which they reject?

Mr. Thurston. I did ask the question that way; those that are rejected.

Witness. I mean, to include the gun, taking the rejected work out, without any reference to rejection, that the $10 will produce
199 a good gun with what would be naturally rejected—would produce a gun that would pass inspection, and the material or parts that might be rejected would not come in; that is outside.

Q. You do include the extent of rejection?

A. If there is that band and that butt-plate, and those pieces are the only parts that are rejected, by taking the whole gun, there is another butt-plate and another band got to be made in their place; they are to be thrown away; I call them nothing in the cost; the gun as produced is a perfect gun, and if there are any parts thrown out you do not estimate them. I estimate the gun as it is; that it was produced with a loss of 10 per cent.

Q. Did you in your estimate consider this loss?

A. If there is 10 per cent. rejected.

Mr. Thurston. What percentage did you allow for that loss?

Witness. Some more, some less.

Q. There is more or less loss on the stock employed?

A. Yes, sir, metal, woodwork, &c.

Q. There is more or less loss in the workmanship of all the parts, is there not? What average percentage of loss on the whole arm do you allow from these causes which are detected finally by inspection?

A. Well, on some parts I allow more; on the barrel and bayonet I would allow more than on the stock, but in the aggregate I have never made an aggregate calculation. I know what the loss would be at the Springfield armory.

Q. What per cent.?

A. I do not exactly recollect, but should think about 5 per cent.

200 Q. Do you differ from Mr. Flag, in the Springfield armory, that the loss was 20 per cent.?

A. Twenty per cent. in some things, sir; more than that.

Q. On some of the parts it would be more than 20 per cent.?

A. I do not say that it is necessary that it should be. I say there have been.

Q. But in fact and in truth, do you say the loss is 20 per cent.?

A. I should not think it need be.

Q. Do you mean to rest it at 5 per cent.?

A. If I were to take the barrel, I should say the barrel ought to be made at a loss of from 12 to 15 per cent.; if I were to take the bayonet, I should say perhaps 7 or 8 per cent.; the rod about the same. There are losses in all the different stages, more or less. The gun stock there would be but a trifle of loss from. When the stock is finished

there would not be but little loss, say 5 per cent. It is not so liable to imperfection.

Q. Not in the wood more than in the barrel?

A. That is before the stock is commenced; there would be quite a quantity.

Q. I am including all the loss from the time the material is received down to the time it is delivered.

A. There may be 10 or 12 per cent. loss, taking the rough stock before it is finished. To proceed, there is losses on all of the stock, more or less; on the butt-plate there would not be but 2 per cent. loss; there might be 3 or 4 per cent. on different parts of the lock; the hammer perhaps might be 5 per cent.; the lock-plate might be about the same; the tumbler about the same; the springs might be
201 10 or 15 per cent.; the lock screws would be but a trifle, 2 or 3 per cent.; the band springs might be 7 or 8 per cent.

Q. As you have had no experience whatever in the inspection of that kind of arm—have not been in the Springfield armory for many years—what you say is mere guess?

A. I come in contact with them almost every day. I am in the Springfield armory, sir, very often. I live near the Springfield armory; go there quite often; go through the armory; had a conversation with the master armorer. The last time I saw him I met him and had nearly an hour's conversation with him. He asked me my advice upon some particular operations he was to introduce, which were new. Then he asked me what I thought of them, and many other things, and then I knew how much they gauge their work and see. My residence is not a hundred yards away.

Q. Your conversation did not relate to the amount of loss involved in the inspection of these parts? Upon another point, you said there was a very trifling loss in the making of the parts of the musket-stock, because you said that this place that receives the lock-plate in the butt was made by machinery, one part of which was the counterpart of the place that is cut in the stock, as that was case-hardened, made as hard as a diamond. Was you speaking of the stock or of the lock-plate, that you said it was milled in that way? Is it not true that that place in the stock is made by substantially the same me-
202 chanical devices as the lock-plate?

A. No, sir; not exactly.

Q. Of course, one is wood and the other is iron. Do you mean to say that they are made by the same arrangements, or not—mechanical contrivances in general operation?

A. If that lock-plate is cut round by what we term a profile machine, and has a guide-pin to carry it, which the stock has in cutting out the hole for the lock-plate, the principle is the same, but the mill across the lock-plate, to put it into the milling machine, is not the same thing.

Q. I thought you were answering the question upon the block—of the manner in which the stock is cut out to receive the lock-plate? You say you were speaking upon the machinery, which is substantially of the same character for working out the cavity?

A. I was speaking of the lock-plate: and it makes no difference whether we take the lock-plate or the place that receives the lock-plate.

Q. You stated that a part of the mechanism that was used in that manufacture (you were then speaking upon the subject of the case with which it could be made accurately) was composed of a part that was case-hardened; now, what connexion with the accuracy of the manufacture did you make of that case-hardened part? Is it not for a guide to run against which makes the corresponding part, or
203 what purpose is it for?

A. You have got hold of two ideas, I should think, by your talk. This lock-plate, as I told you, was put into a couple of jigs, or one jig, as you call it; as they come together, the lock-plate is in between them, between these two plates (putting the lock-plate between two books.) If this was case-hardened, made hard just exactly to the model of the thing you wanted to produce, you put "that" in "there," and get "this" down perfectly to "this," it would be what you wanted precisely. This is made hard, so that it shall not be wore off by the file or anything striking it.

Q. Then it is not what I inquired of—that these two parts are a hardened surface, so that an object between them can be cut down to them, and the hardened surface and the case-hardening of the sides prevent further cutting of the material?

A. But this is a different thing.

Q. I want to know, if upon the part of making the stock which you say was accompanied with so little loss, and in making which the place is cut to receive this very lock-plate, how that part of the stock is made—how that is cut out?

A. I can do it, I believe. I have made the tools, and forms, and reamers myself at Millbury and Springfield. "There" is a form made like this wood, standing at one side or the other of the
204 stock. "There" is a spindle coming down with a cutter, or cutters, that revolve spindles; it takes a number. There is an upright spindle that comes down with a cutter that revolves repeatedly. "Here" is a form "out here" that is the shape, or very nearly the shape, of "that," but not precisely. And then there is another spindle comes out "here" with a pin, which is connected with the other spindle by a rider. Then this pin in one spindle comes round and traverses around "here," which makes that spindle then move just exactly in the shape that this traverses all the time that it comes around here. That cutter there, which is cutting the stock, moves off just the same as this does—goes into every place just the same as that.

Q. This being formed, gives another shape out there just like this, and makes a duplicate of it? There is a recess of metal, the form of which corresponds with the form of the mortise in the object itself?

A. Yes, sir.

Q. And by a former, or finger, following the conformation of the metal recess, the same conformation is produced on the stock?

A. Yes, sir; hence the form.

Q. The model former must be exact, in order to produce the exact work, of course?

A. It is not necessarily, but ought to be exact. If that cutter which runs in "here" is of a different size from the guide-pin,
205 and the other form is exactly like the thing you want to produce, the thing you want to produce will not be the same thing, and your cutter is not the same size with the guide-pin; therefore there must be a perfect correspondence.

Q. Now, to make a machine which shall produce that result requires the surface of the parts against which the guide is to travel to be case-hardened, does it not?

A. It is better that it should be case-hardened. I have made a great many of these things, and have made them in different ways. Yes, sir, it ought to be hardened; the chances of wear are much the less. If not hardened, the result would be that, in process of time, it might wear a larger mortise than would be required.

Q. Is it not a matter of extreme nicety to harden one of these configurated recesses in the guide, to produce that form of stock?

A. It is rather difficult, it is true, to copy it, and there are ways which I have adopted, as it is a difficult matter.

Q. Did you make, in your estimate, any allowance of costs for the time, expenditure, labor, capital, material, upon making that class of machines, of which that simple instance of cutting out a lock-plate is a fair sample, in your cost of the musket?

A. Do you mean that I call it within $10? I take in all after the tools are produced and made right. I take in the wear and tear.
206 Q. He starts his computation from the time when the tools are completed; makes no allowance for the nice operation of hardening tools on this point?

A. The hardening of the tool would be one part of the making of it. I do not take in any of the making of the tools themselves, but I take in the wear and tear after they are completed.

Q. That is why I asked you the question. I wanted to exclude the wear and tear. Do you make any allowance for supplies, files, sand-paper, and everything necessary to produce that article? What per-centage did you allow in your figures of $10 per month?

A. I made not a very nice calculation upon the per-centage, for I am sure in my own estimate that $10 will cover the whole.

Q. Now, the reliability of your estimate is a question before the jury; I want to know how reliable this estimate is, and therefore ask you how much you allow in the estimate for this subject of supplies. If you have any definite allowance, state it; if it is all uncertain, state that. If you know, inform us; if you do not, very well.

A. It is about 10 per cent., sir, in all, taking the whole together.

Q. That is, you would allow 10 per cent. on the cost, as you wish to be understood as saying that 10 per cent. on $10 would be the cost of supplies necessary for each musket?
207 A. If I understand you rightly about supplies, that is my estimate, sir. As to the musket without the supplies, something like $9.

Q. The real cost of the musket, without the supplies, would be $9; and with supplies, $10?

A. Something in that neighborhood.

Q. Before, when examined on this subject by the plaintiff, you stated expressly that your estimate was founded on labor and stock; do you wish to change that statement, and say that the whole estimate is founded on labor, stock, and supplies?

A. I call oil, files, and the like, all stock and material.

Q. You resigned, you say, in what year?

A. In 1843.

Q. You did state that there was no practical difficulty, in your judgment, in making the different parts of a musket in places widely separated from each other. In your whole experience, have you known any instance of the Springfield musket interchanging with all its parts with other arms of the same manufacture made in that way?

A. I believe I have, sir; not of the present arm, however.

Q. I am speaking of the present arm, with the present system of interchangeable relation.

A. The present system? I know the arm manufactured in 1841 was a more difficult arm, a great deal, which interchanged, than this is. A Mr. Pomeroy, who was contractor in Pittsfield at the time, and was producing that kind of musket, and brought the parts
208 down to Springfield armory and interchanged them there—I won't say the whole gun, but most parts of the gun, and interchanged them with the Springfield gun. There have none been produced in that way, I guess, of the present arm.

Q. I ask you, with respect to any arm of the present or former pattern that were made in remote ages, if you ever knew of an instance where an entire musket, or any number of muskets, was made in different parts of the country, and assembled together, and made a perfect and complete arm?

A. I do not know as I know of any other instance than the one I have alluded to; I believe, however, and am very sure, but would not swear positively, that they have been brought from Harper's Ferry and Springfield armories and interchanged; I would not say positively; have that opinion, and with regard to Mr. Pomeroy I know.

Q. That you have explained. Was it as long ago as 1843, nineteen years ago, when you left the armory, when the $\frac{25}{1000}$ part, or the $\frac{1}{400}$ part of an inch, was a large variation to find in the barrel?

A. Yes, sir; I say it looks large to look through it; the thickness of a piece of paper to gauge a lock-plate, I should think would be.

Q. You have had experience in gauges; will you tell the jury, in $\frac{1}{1000}$ of an inch how thick is that piece of paper?

209 A. Well, I could not tell; I never measured them exactly; but I should think 600 or 800 might make an inch.

Q. Then it is about $\frac{1}{600}$ of an inch?

A. That piece of paper would be quite a variation; it might not take 300; I do not know. The thickness of a piece of paper is quite a variation; it would be a good deal to vary, let it be more or less.

Q. Was there any standard which you applied as long ago as then, or any limit of accuracy up to which the parts would come? What was the lowest and the smallest amount of variation that was allowed to pass?

A. There was no variation specified except as to the inside of the barrel; the same then as now, sir. But an inspector used his judgment; if a thing varied from the gauge a little more one way or the other, he generally used his judgment to the same extent.

Q. You have explained how that certain parts of the musket were found much more material than the other parts to be accurate?

A. Yes, sir; it is more necessary that the tumblers should be of the right thickness than it is that the barrel or the exterior should be of exactly the same size. I have been in the armory when a great many models were made.

Q. What was the average cost of the arms and gauges that were made?

210 A. That is more than I can tell you.

Q. Can you form an opinion from the knowledge of the operation?

A. I should think Mr. Lehman's would be a right estimate. Mr. Lehman does not state that the whole appropriation was expended.

Re direct.

Q. (By Mr. Hazard.) You stated that when you were at the armory there was no precise rule showing how much the inspector might vary?

A. Nothing but the inside of the barrel.

Q. He used his discretion, did he?

A. Yes, sir.

Q. Do you not know of your own knowledge, from your personal visit at the Springfield armory at the present time, or recently, that the same rule prevails now?

A. Yes, sir; I know by the application of the gauges when I saw the inspectors apply the gauges to the different kinds of work. The gauges are *fac similes* of those I got up in 1840, or that were got up under my direction. In the different parts, I say to the barrel, it took me a long time to find out where the best places were to apply them.

Q. It was a matter of pondering with you; you were engaged in experimenting.

211 A. There is a taper to the barrel; there is a concave surface on the outside where the barrel runs almost straight, perhaps; to move it an inch it would not vary half the thickness of a piece of paper.

Q. Have you within the past few years seen the process of inspection time after time, and come in contact with the officers?

A. It is but two or three years since I made an inspection myself at Middletown. I was appointed, and went down to make an inspection there, and did make one of U. S. arms; not the musket, but the pistol.

Q. The same principle and practice prevailed then as before?

A. Yes, sir, exactly; in the tools that were got up in 1843, the samples of which I carried to Washington myself, of the musket, pistol, and carbine; afterwards issued at West Point.

Q. You carried the samples to Washington and deposited them in the Ordnance department to have them accepted as samples, not as models?

Cross-examination resumed.

Q. You say your gauges were a *fac simile* of the gauges now used?

A. Yes, sir.

Q. You do not mean to say that a gun made according to the gauges you produced would be a gun according to the present pattern?

A. No, sir.

212 Q. In some respects they are alike, and in some different?

A. I mean to say that to gauge that tumbler they will have a gauge very similar to the one I made; but I mean the application. The tumbler was like that; the gauge suits this tumbler as my gauge suits the former tumbler.

Re-direct resumed.

Q. Is it not true that the same discretion is allowed to inspectors at the present time as 20 years ago?

Mr. Thurston. I object to that question.

Court. I did not suppose he had any knowledge of Springfield for the last 20 years; therefore he is not to state what took place at Springfield. I now understand that he has been present at an inspection at Springfield within two or three years.

Witness. I had been on inspection abroad on a private arm. Was sent from the armory out to make an inspection within a few years.

Q. You said you resided in Springfield, was a frequent visitor, and saw the gauges applied?

A. I am in the armory as often as once a month.

Q. Do you know of the manner in which they did inspect in Springfield within the last two or three years?

Mr. Thurston. The same question he answered before. He says he does not know, but it may have been altered.

213 *Testimony of Marshall T. Burgess.*

Q. (By Mr. Bradley.) Please state to the court and jury your present residence and occupation.

A. I reside in Springfield; my occupation is a gunsmith.

Q. Are you connected with the Springfield armory?

A. Yes, sir.

Q. What office do you hold in that institution?

A. I am the principal inspector there on the contract work.

Q. What do you mean by the contract work?

A. Work that is made for the government by contractors.

Q. Is that work made in the institution or somewhere else?

A. It is made outside of the U. S. armory.

Q. Is work made, to any extent, outside the armory by contractors?

A. Yes, sir. There are quite large quantities of it made.

Q. There has been some question, you hear, whether it was possible to make the different parts of a musket interchangeable, if they were made in different establishments in different places. What is the experience of the Springfield armory in that regard?

A. The experience is that it can be done.

Q. Do you know instances of it?

A. Yes, sir, I do.

Q. Illustrate what instances you have in your mind.

A. I have known of work being taken in there that would interchange with government work.

Q. Is it intended that all this contract work should interchange with government work?

214 A. Yes, sir, it is.

Q. To what extent do the gov't send out parts of muskets to be made elsewhere?

A. Well, to quite a large extent.

Q. What parts of the gun do they send out for that purpose in point of fact?

A. Well, pretty much all the different component parts of the musket.

Q. The different parts of a musket are made by machinery chiefly?

A. Yes, sir.

Q. Say to the jury, practically, whether there is found any difficulty in this interchangeable work, made in different places and brought there, fitted into work intended for inspection.

A. No, not to any great extent.

Q. Is it the system of doing business in that armory?

A. Yes, sir.

Q. You say you are chief inspector of the contract arms?

A. I mean to convey the idea that I was chief inspector of parts of arms brought to the armory.

Q. What is the system of inspection with reference to its being strictly in accordance with one model gun you have got in that establishment or not?

A. We have to gauge all important points, although we admit of considerable variation on some points of the work.

Q. You admit of considerable variation on some points of the work. How do you compare them with the model gun? Do they come up to that?

A. No, sir; they do not.

215 Q. What does guide you in the rejection or passing upon parts of the musket brought before you?

A. We have to exercise our own judgment.

Q. Do you judge whether it will be a practical musket, or conform to this perfect musket?

A. Whether it will be of practical service or not.

Q. That is the rule prevailing in that establishment?

A. Yes, sir; so far as I know, it is.

Q. I will ask you further upon another subject about the cost of the musket. What is the system by which they know the cost of making muskets at the Springfield armory? Do they take each piece of the gun and have a certain number of prices when peformed by different contractors? Illustrate.

A. They have a regular system for all the parts of the gun. Every piece is taken separately, and the estimate is made on the stock, and the forging and finishing, in every particular, followed until it is completed.

Q. To illustrate that, take any part of the gun you please: state what the processes are on that part of the gun, whether those processes are committed.

A. You might take a bayonet. I cannot give you all the different processes. I have a list of them on my book.

Q. Refer to it.

A. In making the bayonet, the first operation is in cutting off the bar of steel; and the next is forging the blade, drawing out
216 that piece of steel into the form pretty nearly of the bayonet, called forging. The next item of cost is what they term the armory help, *i. e.*, the striker who helps the blacksmith—a man to strike and help the foreman in the blacksmith shop, more commonly called the helper. Then there is a socket in this place. The plate of iron is cut off from the bar of the right size to make the socket, and then it is what they term plated, which draws it out into shape and forms the bridge over the lower end that passes over the sight, when the bayonet is put on; that is also welded. The next operation is the socket welded on, that is, welding the steel plate into the socket. Then the neck is swayed, and then the whole thing is annealed. The next operation is what they term first boring—boring out the hole in the socket roughly.

Q. The socket is not solid up to that time. Is it solid iron up to the time you bore it?

A. It is plate of iron bent, leaving a hole through it.

Q. I do not wish to get all these processes.

Witness. Do you wish to get the cost of each process?

Mr. Bradley. Yes.

Witness. They have a price established for each operation in each part of the gun, in other parts as well as the bayonet; that illustrates the whole system by which the whole musket is made.

Q. Please state what is the cost of making a musket at Springfield and how this is apportioned to the different parts.

A. The whole cost of the musket is about $7 40 or $7 50.

217 Q. That is the mere labor, material, I suppose. What do they add to that for the wear of machinery and tools?

A. They add to that about 50 per cent.

Q. That is for keeping the tools up, and for all the contingencies. Have you any schedules showing the way that cost is apportioned?

A. I have a list showing the cost of the arm to the government.

Q. Of each part?

A. The cost of the rifled musket and appendages is $10 34$\frac{71}{100}$ cents, that is, after adding 50 per cent. for tools, machinery, and other expenses. This is a statement certified by the master armorer of the Springfield armory.

Q. It is a printed form, is it?

A. These are printed forms which we have, to be used in the armory for making out the cost of the different parts.

Mr. Bradley, (showing the schedule.) There is a list in print of 40 or 50 parts of the gun, with what is allowed for each.

Mr. Thurston. Here is a paper, may it please your honor, that I infer from the witness he knows nothing about, except the certificate of Mr. Allen, master armorer. We are desirous of obtaining the master armorer, and although in many respects this is undoubtedly correct, we desire that it be sworn to by the only party that can know that it is correct.

Witness. I did not say that I knew it to be correct. I know
218 it is the system upon which we make up the apportionment. It is correct, according to the best of my judgment.

Mr. Bradley. We were told by the gentlemen they would have the officers of the armory here. We have done our best to get them here, and we got the inspector to testify while the master armorer gives his certificate, under his own hand, one of the forms drawing up the whole matter. (Reads the certificate:) "The foregoing is the cost of the musket, with the materials, and 30 per cent. added. I hereby certify the cost to be correct. (Signed Allen.")

Mr. Thurston. I object to it. The gentleman alleged before that the witness knew it; now he produces a certificate. If he knows it, I am perfectly contented. If he does not know it, but derives his information from a statement handed to him by another party, a superior, who is not present, and gives no deposition, it is inadmissible. We are entitled to the witness or the deposition.

Mr. Blake. Perhaps the gentlemen will not disagree, after all. We do not offer the statement. The witness tells how they are made up, and what the allowance is at the armory to each party who makes different parts of the gun. The witness takes this statement out for the purpose of confirming his own testimony. We do not offer that as legal, independent testimony.

Mr. Thurston. It is out, then.

Q. You are one of the officers conferring about the cost of
219 these various items. What is the cost of making a musket at Springfield, ascertained in this way?

A. I understand that it is as near that as I know about it. Anyway, this is as nearly correct as I could make out a statement.

Q. What has been your occupation prior to your being there as inspector?

A. I have worked several years in making gun tools, and worked on gun work a good deal.

Q. Have you inquired about the cost of the various parts of the gun of the workmen there, what they get for the several processes?

A. Yes, sir.

Q. Does that statement correspond with the inquiries you have made in that way?

A. It does, as far as I have extended those inquiries.

Q. That cost, including appendages, is $10 $34\frac{71}{100}$. Are the men in the armory hired by the piece or the day?

A. By the piece, sir. There may be a few men who work by the day, but principally the work is done by the piece.

Q. How many parts of the arm are made outside of the armory? What proportion of that long catalogue of parts of the musket are hired to be made up?

A. I do not mean all of them, because the ramrod and bayonet I know of being made outside. Also, the bands, band-springs, and parts of the lock, the hammer, the main-spring, the sear-spring, the bridle, and guard, including the whole guard assembled, the
220 trigger, the cones, the leaf-sight, as they call them there, or rear-sight, butt-plates all of these different parts have been made outside of the armory, and brought there for my inspection.

Q. Have they passed your inspection, and been received by the government?

A. Yes, sir; received and paid for.

Q. All those different parts that go to make up that lock are made by different contractors in different places?

A. All the lock which has been turned in there was made by a contractor in Middletown.

Q. That works in with the barrel, with the lock-plate, and everything?

A. Yes, sir; it will interchange with the work made in the armory.

Q. Have you had any comparisons made between the work brought to you from outside and the work made in there as to interchangeableness?

A. Portions of the work made outside have been put into the hands of the armorers and assembled in with the other work made in the armory, and pronounced to be right.

Q. Is that as well, or better, or worse, than the same parts made in the armory?

A. It is called fully as good.

Q. Is that work made under Mr. Norris's direction?

A. It is furnished by Mr. Norris to the armory. He hired these other men to make it for him, as I understand it: Mr. Norris, the plaintiff in this case.

221 Q. Do you know whether, since the different parts of the musket have been made by machinery, it is more or less difficult to have them made so that they will interchange than when made by hand? Is there more uniformity in the product made by machinery than in the work made by hand?

A. There is more uniformity in work made by machinery than in the work made by hand.

Q. (By Mr. Blake.) They interchange, therefore, with less difficulty?

A. Yes, sir.

Q. I should like to ask, do you know the fact whether ever before they began to make guns by machinery in this country and England, the different parts were made by one concern, or by different establishments?

A. At any rate, for the last 50 years, the guns have been made in different parts by different establishments, and then assembled and put together.

Q. Do you know the fact whether people go to learn the trade of making guns, or whether they make particular parts, and those made in different shops, disconnected from each other?

A. In Birmingham, I have understood, as far as that is concerned, that they made work in different places, and brought it all together, and had the parts assembled and refitted, so as to be made to go together finally.

Cross-examination.

Q. How long have you been inspector?

A. Since last December.

222 Q. On or about the latter days of December, or from the middle to the last, you were appointed to that position: what was your experience before in regard to inspecting arms?

A. I never worked inspecting arms before that; I had worked on the arm itself, done work on it, made the tools for it.

Q. What part of the arm did you ever work on?

A. More particularly, the assembling of the locks.

Q. By that you mean putting the parts of the lock together that had been made, and parts, too, that had previously undergone inspection in all their details?

A. I worked finishing tumblers at one time.

Q. When was that, sir?

A. About 9 years ago.

Q. Tell us anything else that you have done in connexion with the gun?

A. Those are all the parts that I ever worked on with my own hands.

Q. What kind of tools have you worked upon?

A. I do not know that I could name the particular kinds; I have devoted a good deal of time in making tools.

Q. Done machinery work?

A. Yes, sir; making tools is machine work.

Q. It is part of the gunsmith's trade, undoubtedly. The making machines by which the gun is made is making ordinary machine tools?

A. Yes, sir; the machines and fixtures to use on the machines and gauges to work by.

Q. You had something to say of the method and rigidity
223 of the inspection, in which you stated that latitude was allowed in some places to a considerable extent upon the different parts of a musket. Who is the superintendent in charge? Is it not Major Dyer?

A. Yes, sir.

Q. Has there not been issued and posted up in all parts of the armory, and officially communicated to every officer in it, that in future inspectors must be rigid, and that in the event work which has passed the inspector was not received, but rejected, the cost of that work should be turned back to him?

A. I have seen no such order.

Q. Do not know of any such order?

A. No, sir, I do not. I have heard the hands say there was such an order there; that is all I know about it.

Q. It is not new to you, then, that such a subject has been discussed by somebody?

A. The way I understood that was from what I heard some of the workmen saying, that if any accepted work that proved afterwards not to be right he would have to pay for it.

Q. You understand that to be the order, don't you?

A. I never had it from any official authority whatever; never had any such orders given to me.

Q. Still, you know, in the manner you have stated, of the existence of such an order. Do you know whether the order is posted up or not.

A. I do not.

Q. How are orders of inspectors usually communicated?

A. Verbally, so far as my knowledge goes.

224 Q. Do you have reference to inspectors in the armory, or outside travelling inspectors.

A. Both classes. I believe, sir, that the orders are given in writing to inspectors who go out to inspect contract work.

Q. By contract work, you distinguish from that kind of contract work of which you are inspector?

A. It is different, because they go to another place.

Mr. Blake. He is not a travelling inspector. He is inspector in the armory, he says.

Q. Let me ask you what the parts that pass inspection under you are principally used for, whether they are for repairs?

A. They are for repairs, but are used to assemble in with the new work; I do not know which they are intended most for.

Q. Do you not know that the parts that are used to assemble in with the new work are only those portions which are very good, but that the mass of that contract work of which you have the charge is for repairs? You do not know whether it is or is not?

A. I understand that some of it is for repairs.

Q. Do you divide it into classes as you pass it—that which is very good, and that which is not quite so good, but sufficient to pass?

A. No, sir, we do not; we either receive it or condemn it.

Q. Does it pass any inspection after yours?

A. No, sir; it does not to my knowledge.

Q. Do you have anything to do with the inspection of the smaller parts made in the armory?

A. I do not, sir.

225 Q. Did you ever know of an instance where the parts were made of an entire musket outside of the armory, and were assembled together, making a perfect musket?

A. I never did.

Q. You have spoken of the number of distinct operations necessary to make a musket into which the labor is divided and subdivided in the armory?

A. Yes, sir.

Q. What is the number of operations for the whole thing? Can you state how many?

A. No, sir, I cannot.

Q. Is it not a matter of ordinary information?

A. There are so many different operations that it would be impossible.

Q. I am asking for the whole number, not for a detailed list.

A. I think I have the list of pretty much all the operations here, and can tell by counting them.

Q. You have yet to count them. When did you make that list?

A. It must be nearly two months since.

Q. Who did you make it for?

A. I made it for my own reference.

Q. At whose suggestion?

A. At no one's but my own.

Q. How many distinct parts are there?

A. Would you like to have me name the different parts?

Q. Can you tell whether there are 60, 70, or 80?

A. No, sir.

226 Q. You have told us what you had to do in making the parts of a musket. Did you ever have any experience in superintending any room in the armory?

A. Nothing more than where I am employed now.

Q. Or in superintending the manufacture or parts of the manufacture of any portion?

A. No, sir, I did not.

Q. Were you ever engaged on your own account in the manufacture, or engaged with any others in that branch of business?

A. No, sir. Well, if you would in that branch of business include the making of pistols, I once started a shop on my own account for making pistols.

Q. Continued it, did you?

A. No, sir, I did not.

Q. How long was it in operation?

A. From a year to a year and a half, as near as I can recollect.

Q. A good while ago, was it?

A. It was commenced in 1850. I sold it out in 1857.

Q. Did you ever make any contract for any part of that arm? You have been speaking as to their cost.

A. No, sir; not of the musket.

Q. Do your duties in the armory now, or did they at any time heretofore, ever bring you in connexion with that part of the administration of the armory which relates to the contracts and the prices paid for work?

A. No, sir; I found those out from my own observation.

227 Q. Found out the prices paid from observation? Do you mean to say in fact, relative to the statement you have put in here, that the cost of the arm was $10 34$\frac{71}{100}$? Anything more than that, you believe it is a true statement?

A. I believe that to be correct, as far as I know about it.

Q. Have you, in fact, any knowledge of your own upon the subject?

A. I have some knowledge of what some parts of the gun cost. I have based my calculations on that.

Q. From whence is that knowledge derived?

A. From my own judgment and experience in working iron and steel.

Q. Still you never contracted with other parties to make them for you, nor contracted yourself with other parties to furnish them to them, but have done that kind of work only of which you have already told us. As to the other parts of this statement, involving a great number of items, do you base your statement solely upon the printed statement you present?

Mr. Blake. No. He says his own judgment and experience.

Witness. I think, from what experience I have had in working metals, that the thing might be done for that.

Mr. Thurston, (reading from the schedule)—

Q. What is the fair price for tips for stocks?

A. I could not tell you without figuring.

Q. I want to get out as accurately as possible the extent of

228 your own information upon this subject, and the extent of that information which you speak of as derived from other parties, to separate the one from the other. What is a fair price for tip rivets?

A. I believe there is no such thing about the gun.

Q. You had better take the statement back and have it corrected. What is the price of ramrod stops?

A. About one cent, I should think.

Q. What is a fair price for but-plate screws, two being used in the arm?

A. About 4 cents, I should think.

Q. What is a fair price for guard plate?

A. I should think about 75 c.

Q. They don't charge but 31 c. according to this statement. What is the price of guard bows?

A. I could not make an intelligent statement of those things without figuring over the details of the cost.

Q. You have come here to testify, as an expert, upon the cost of

articles. Can you give a statement to the best of your opinion, from your experience in the armory working upon that part of the gun, what a fair price for making a guard bow swivel would be? For you say you have knowledge of your own, independently of what you have been informed.

Witness. To do the work on it?

Mr. Thurston. No, sir; the cost of material and work.

A. One and a half to two cents.

Q. They put it down at five cents here. State what would
229 be the cost of making a trigger, stock and labor.

A. I could not tell you.

Q. Should you think 25 c. was out of the way? How much too much?

A. I could not tell you.

Q. Should you think 5 c. was out of the way?

A. I could not tell how much it was worth.

Q. Have you any idea, sir, what the sight piece would cost to make? How many sights are there?

A. Front sight and rear sight.

Q. The front sight is a fixture. As one of the elements of the cost of the sight, tell us what the sight piece will cost for the reception of the liefs. Have you any idea whether it would cost 10, 15, 20 cents, or $1, from your experience in the armory?

A. I think the piece of the sight would cost six cents.

Q. The armory put it at 19 c. Can you give any better judgment of the cost of the liefs?

A. I think the two liefs would cost 15 c.

Q. The armory put it at 22. What part of the gun did you say that you particularly worked upon when you was upon the gun itself and knew its cost?

A. I mentioned the tumbler.

Q. What would be a fair price for stock and material for making tumblers?

Mr. Blake. You are taking that as a correct statement now.

Q. What is your experience of the cost of making a tumbler for labor and material?

230 A. I should think it was worth from 20 to 25 cents.

Q. What should you think was the price of making tumbler screws?

A. I should think it was worth 4 cents.

Q. Have you any idea of what would be the cost of a ramrod?

A. About 42 cents or 45—somewhere thereabout.

Q. You put it 25 per cent. higher than the armory. Have you any knowledge or means of estimating the cost of the bayonet clasp?

A. About 10 cents, I should think.

Q. The government pay $1 45?

Mr. Bradley, (reading from the certificate.) "The foregoing is the cost of the musket for labor and material, with 50 per cent. added." The witness is giving only the direct cost.

Q. Have you any idea what would be the cost of the lock plate?

A. I could not tell you without several operations.

Q. Have you ever figured up the cost of any of these different articles that I have drawn your attention to? If so, enumerate one of them.

A. I have of all of them.

Q. When did you make that calculation?

A. I made it at different times.

Q. Are the results of those calculations fresh in your mind now?

A. No, they are not.

Q. Then do you testify here as to the cost of the construction of the musket, on opinion formed from calculation, when the result
231 of that calculation is not clear in your mind?

A. I have the total amount which I have made out of the gun to cost, in my estimation, which corresponds with the amount there very nearly.

Q. At any time in your life, sir, did you ever go through with a computation to show what the total cost of a musket would be? You stated you made it at different times. I mean at any one time.

A. I put those items together and made out the whole amount from that.

Q. How long ago?

A. Six months ago, I should think.

Q. For what particular purpose, if any?

A. I did it for my own information and satisfaction.

Q. You have those figures with you?

A. No, I have not.

Q. Nor any abstract of them?

A. I came to the conclusion that the gun costs from $10 to $10½ for labor and material.

Q. Now, sir, what sum is added, if you know; and if you do not know, state that for the cost and as an allowance for interest upon the investment in the way of building, for the wear and tear of machinery, and does it enter into the statement at all?

A. I think it is included in that 50 per cent. added.

Q. When you say you think it is added, do you know what that 50 per cent. covers? If you do not, say so.

A. That covers the expenses of running the machinery, and other expenses that are necessary.

232 Q. Do you state that as a fact?

A. That it covers the expense of running the machinery, and the wear and tear, as I understand it.

Q. Is that all that it covers?

A. There is interest on the money, to be sure.

Q. There is interest on the money, to be sure, but is it included in this statement?

A. I do not know as it is in that. It was in the one I made.

Q. What allowance did you make to the U. S. for that investment? How much money have you got invested there?

A. I have allowed in my estimate; I have forgotten the exact amount now.

Q. Never mind a few cents in so many millions; never mind abou the change; get it somewhere near; get it within half a million.

A. I think I added about 7 per cent.

Q. Seven per cent. on what sum?

A. I could not tell you now.

Q. You made an allowance to ascertain the cost of a musket for interest at the rate of 7 per ct. without knowing the principal?

A. Two or three hundred thousand dollars, I think I put it.

Q. Which was it, two or three?

A. I could not tell you now.

Q. Would 300,000 dollars approach the investment made there according to your judgment?

A. I don't know; I shouldn't think it would.

Q. Are you sure that you took either of those sums?

A. Yes, sir; I am.

233 Q. Well, which?

A. I could not tell which; I do not remember now.

Q. What allowance did you make for the cost of machinery; what sum of money?

A. I calculated that the sum that I named would cover the whole cost.

Q. I am asking you for the details, in arriving at that result, as one of the elements of it. State what sum you allowed for that part of it.

A. I could not tell you now.

Q. Now, these various items you have stated, interest and all, are exclusive of salaries, are they not? What allowance did you make for salaries, if any?

A. I made some allowance, but I forgot what.

Q. Now, what allowance did you make for the item of salaries; about what?

A. I don't remember now.

Q. Was it $1,000, or $10,000, or $50,000 dollars?

A. I don't think it was either of those amounts.

Q. Was it upon the upper side or under side of either of them?

A. I don't think I could answer the question intelligently.

Mr. Thurston. You have not yet.

Q. As a matter of fact, from your connexion with the army, do you know how much the annual appropriation by Congress is to support the army?

A. I do not know how much it is now; it used to be 200,000 dollars.

Q. The buildings were all built while the appropriations

234 were going on, which were applied for improvements, additions, &c., and that was the annual appropriation, was it not?

A. I do not know as they appropriated so much as that.

Q. At that time, while you knew of the extent of the appropriation to support the establishment, how many muskets were they turning out per annum with the machinery they had in running order?

A. From 10 to 13,000 per year.

Q. And that machinery was built?

A. Of course; the shops were built.

Q. They had machinery there, and it was running?

A. Yes, sir.

Q. Do you know what the appropriation is for the last year; what the investment has been in new machinery buildings and structures?

A. I have not given any attention to that; I do not know what the cost is, taking into consideration those items.

Q. So far as I have spoken of before, what has been the product of the army for the last year?

A. It has varied from month to month.

Q. What is the product for the last month?

A. I think 1,400 or 1,500.

Q. Is it gradually increasing?

A. Yes, sir.

Q. Can you state what the comparative amount of production with relation to expenditure between January, 1861, as compared with last year?

A. No, sir, I cannot.

235 Q. Can you state your acquaintance with the army extended as far back as Jan'y, 1861, or not?

A. I do not know. I was there in November, 1861. I was not there in Jan'y, 1861. I was there in January, 1862.

Q. Do you believe, from your attention having been called to this subject, that there is any allowance made in that statement for the cost of those buildings, the cost of the machinery, wear and tear, and the cost of superintendence?

A. I suppose the 50 per cent. that is added is calculated to cover it.

Q. Is it a mere supposition on that subject, or is it any knowledge whatever, that would enable you to speak definitely?

A. I could not speak definitely.

Q. Is it a mere supposition?

A. Yes, sir, it is a mere supposition.

Mr. Thurston. Entirely so.

Q. Have you any idea what the amount of machinery would cost, from any calculation or any opinion which you, from any familiarity with this subject, are able to give, to get up an establishment sufficient to turn out 10,000 Springfield arms per annum? What would be the cost of machinery and tools necessary to do that?

A. That is a question that I could not answer readily.

Q. You have no present idea upon that subject?

A. Well, I have my own views, of course.

Q. If you have any opinion upon it, you can state it.

236 A. I think it would cost $200,000.

Q. To turn out 10,000 a year?

A. Yes, sir; I should judge it would.

Q. Now, to turn out 25,000 in 19 months, would or would not the expenditure necessary to be made for machinery be greatly increased?

A. I think it would.

Q. How much, double or treble, or in any other proportion?

A. I do not think it would increase in proportion to the a nount of arms turned out.

Q. What should you say from your judgment?

A. I should say about one third in addition.

Q. Some $240,000 or $250,000, or thereabouts?

A. I should think it would increase in that rate of about one third, or one quarter, perhaps—not more than that.

Q. Can you form any idea what would be the expenditure necessary if the establishment had to be built, and the machinery built, and the whole thing turned out within 22 months entire?

A. I should not want to figure on it.

Re-direct.

Q. You do not carry in your memory the cost of these different parts of the gun, but state that the general result of your estimates has been in accordance with this, and that is the opinion of the officers of the army which the gentleman objected to as evidence. Which is the most economical, the work done in that kind of an establishment, or as carried on by individuals?

A. I think it is more economically done by private contractors.

237 Q. That is your experience and that of the officers generally, so far as you understand?

A. Yes, sir.

Q. You thought there was no such thing as tip-rivets; here in the paper it is written as tip-rivet screws. This paper includes the cost of appendages of the musket, as well as the assembling?

A. Yes, sir.

Q. This pistol factory you superintended; did you get out the machinery yourself?

A. I bought part of the machinery, and built part of it; built all the fixtures and small tools.

Q. Did you have practical charge as well as part ownership of it?

A. Yes, sir; I had the charge of it.

Q. Have you refreshed your mind with any re-examination of that estimate recently? Did you make that estimate with reference to this case, anything except your own knowledge and information? What was the result at that time?

A. It was somewhere near ten dollars.

Q. I ask whether the cost of these various items on this list have been ascertained not merely as a matter of judgment, but by ascertaining the prices paid to workmen for doing the work by the piece?

A. In some parts of it I knew the prices actually paid to the workmen for the work by the piece.

Mr. Bradley. It is that in addition to your judgment.

238 *Cross-examination resumed.*

Q. How many pistols did that establishment turn out?

A. I could not tell you, sir. I never finished any; it went out of my administration.

Q. During your administration, how many did you turn out?

A. We got it all ready to make pistols; I do not know anything further about it.

Q. All it did during your administration was to get ready?

A. It did some of the work, and never finished it so as to complete any pistols. It was not quite ready when I left it.

Q. Did you ever do anything afterwards? What establishment is it?

A. It is now burned up. It was at Winsor Locks, Conn.

Q. Did it burn up soon after you left it?

A. I think it was a year or a year and a half after I left it.

Q. Insured, I suppose?

A. I never had anything to do with it.

Mr. Bradley. We wish to put in the report of James W. Ripley, chief of ordnance, to Secretary Cameron, under date of June 19th, 1861, on the 30th page "of the purchase of arms contracts." It is a report to the Secretary of War that encloses the report
239 of this committee—Messrs. Holt and Owens—upon the subject of the purchase of arms and contracts thereto. This was referred to in testimony of Mr. Norris; and in the testimony of Mr. Norris in relation thereto, "till that was done, nothing could be done in the way of definite contracts.

(Here Mr. Bradley read from the above mentioned page the extract commencing as above.)

We read further from the same pamphlet on pages 145 and 146. We propose also to put in the report of these same Messrs. Holt & Owen, upon the contract to Mr. Wm. Mason, of Taunton. The point of the report is the reduction on the 2d page of the Mason contract; (reads from the words "In four cases only" down to "practical machinists and working large factories.")

Mr. Payne. Are you not going to put in Gov. Sprague's testimony?

Mr. Bradley. Yes, in rebuttal. We claim to know the proper place to introduce it.

I believe we have made out, please your honor, that, using proper agencies in a proper and honorable way, we did obtain the contract. They have the benefit of it, and the profit on 50,000 muskets. We ask that they should perform the contract with us. Beyond that we could not anticipate what testimony they would have on their side. They have put in testimony to show the contract was not valuable to them. If they agreed to pay so much for this contract, thinking,
240 with these intelligent government officers, that they could make them for $12; if they agreed to give us that at that time, of course they are bound to do it, and all this talk about the cost of making a musket is valueless. Then comes the question of how much this is worth in their hands. We have offered testimony to show that these guns can be made for $10 per musket. Our case stands upon two grounds. Upon the nature of the contract they ought to pay that much, and beyond that, from the material of the contract, they ought to perform their agreement.

We have further evidence which will be produced in reply to whatever they may set up. We rest our case here, your honor.

241 *Testimony for the defence.*

Examination of Mr. John B. Anthony, (direct by Mr. Thurston.)

Q. What is your official position with reference to the defendant corporation?

A. I am treasurer of the Providence Tool Company, the defendants.

Q. How long have you occupied that official relation?

A. Since March, 1854.

Q. What is the style, agent and treasurer, or treasurer alone?

A. It is both agent and treasurer.

Q. Are you a director or a stockholder?

A. I am not a director but a stockholder.

Q. Will you please state to the jury what was the nature of the business in which the Tool Company were engaged prior to the 24th of July, 1861. Give an idea, in as few words as you can, of the nature of their manufacture.

A. We were engaged in the manufacture of articles for the ship chandler trade; poops, pintles, marlinspikes, ship scrapers, and a variety of those articles sold by ship chandlers, what were called ship chandler's ware. We were also engaged in the manufacture of nuts, washers, hinges, plate hinges--what you would call heavy ware.

Q. Had you had anything to do with the manufacture of arms at all?

A. Never.

Q. Had you any knowledge upon that subject, whatever?

A. My attention was first called to the manufacture of muskets early in the spring of 1861. It was called to that subject by George F. Foster, the son of the former superintendent of the Burnside Rifle company.

Q. State what degree of information, if any, you got from that examination.

A. He stated that a contract for arms was about being given out by parties in New York, for foreign account; I understood it to be for the Austrian government; that the agents for those contractors were residents of New York, by the name of Wm. H. Newman & Co.

242 The musket he stated to be one called the Birmingham musket; and he representing himself to be a practical gun-maker, gave me a list of the different parts, and the cost of manufacturing each part of that musket, making it out to be between $9 and $10—my impression is about $9 40, though I have not those figures.

Q. Did you make any particular examination; if so, what information did you get about it, and what result did you come to?

A. I obtained no further information in regard to the cost of the musket. I asked him for an estimate of the cost of the tools and machinery. This he handed to me, and the sum total of it was about $42,000.

Q. The money necessary to go into the business?

A. The investment necessary and the cost of the machinery and tools necessary. He represented the contract to be one which would be successful in our hands, and desired for himself a situation as master mechanic. I asked him to give me such information in regard to it as he could, and I would submit it to our directors.

Court. I was about to question you, what was your authority as agent and treasurer of this corporation—whether you had authority to make any contracts?

A. I never understood myself to be authorized to make any contracts outside of our legitimate and regular business.

Mr. Thurston. Which was making ship chandler's ware, &c.?

A. Yes, sir, as I explained before, I was always in the habit of consulting our directors upon any matters of importance pertaining even to regular business—not some of the directors, but the directors.

Q. Please state, did you embark in an enterprise of that kind, or what was the result?

A. While Mr. Foster was engaged in preparing this schedule, during the time, he told me he had a friend he wanted to introduce, and whom he believed would be of great importance in securing the contract, provided we concluded finally to go into it. This friend was intimate in the family of one of the agents for the contractors, and by that means expected to bring important influence to bear.

243 Asked if he might introduce that friend. I told him yes, without inquiring who the friend was, and an hour was appointed for the meeting. At the appointed time Mr. Foster appeared with Mr. Norris, the plaintiff in this case. I was quite surprised that the person who was to be so important in this matter was to be Mr. Norris, as I expressed to Mr. Foster afterwards. I had known of Mr. Norris for a number of years—knew considerable of his antecedents. I declined, to Mr. Foster, having anything to do with any part or lot which Mr. Norris might have in the matter. He told me he had agreed with Mr. Norris that if anything resulted from his influence—

Mr. Blake. Stop a moment. I understood this was gone into with regard to showing how much of any acquaintance with guns Mr. Anthony, as agent, had previous to the contract with Mr. Norris. I have no objection to that. But what he said of Mr. Norris behind his back, and what his views were, I object to as wholly irrelevant and improper. Anything you want to put in about Mr. Norris's antecedents we do not object to.

Mr. Thurston. Of course we do not propose to put in evidence of what Mr. Anthony said behind his back.

Q. Was there any result that was arrived at in this matter from your going into this part of the business?

A. I called upon the parties in New York twice to get information in regard to the matter, but there was no result attained, and, finally, the whole thing was dropped.

Q. Please state where was the next interview you had with Mr. Norris, if the next interview was relative to the manufacture of Springfield muskets.

A. About the middle of May, 1861, Mr. Norris called at my office and asked if we would like a government contract for Springfield muskets. I told him, "Yes, if the quantity and price were sufficient." He asked what would be a satisfactory price? I told him I could not tell; this would be a new business, one I had no authority to engage in, and a matter that must be referred to the directors.

244 At a later day, (this was all that transpired at this interview,) at a later day, about the first of June, Mr. Norris called and said he was going to Washington that evening, as I understood.

Q. Did he have his carpet-bag with him?

A. I do not remember that he had his carpet-bag. He was going that evening, as I understood him. He asked if we would take a contract for 50,000, at $15. I answered upon my own responsibility, and with no other information than Mr. Foster's. (I had personally told him I had no authority; thus I did not again tell him.) I answered, "Yes." He asked what commission we would pay him for such a contract? I said I could not tell; but if he obtained a contract our company would accept I had no doubt they would deal liberally with him. Nothing more occurred at that interview. I heard nothing more from him till about the 1st or the 2d of July.

Q. Let me ask you, before that, whether you said anything more to him at this time upon the subject of compensation?

A. I said nothing more until the 1st or the 2d of July. The 2d he says. I presume it is correct.

Q. How long did the interview on the 1st of June occupy?

A. I should think it might have been 5 minutes.

Q. Did it exceed it much, if at all?

A. I doubt if it did at all.

Q. It was at your counting-room?

A. Yes, sir.

Q. State the time of the day.

A. It was about the middle of the day.

Q. At the third interview, which took place on or about the 1st of July, Mr. Norris came in, apparently in great haste, with his coat on his arm, and said, I am on my way to Washington This, I believe, was about 12 o'clock, and I understood him he was going in the train at 12½ o'clock. He did not sit down, and, I think, did not remain to exceed three minutes. He says, I think the government will not make contracts for 50,000, but probably for 25,000 each.

245 It may be proper to state that I have kept my memory fresh from time by taking notes at nearly or very nearly the time of the occurrences. This is simply an outline of those notes. The object of having them before me is that I may get the dates correct.

Mr. Thurston. There is no sort of impropriety about it.

Mr. Anthony. He stated that he thought the price would be $17, and asked if we would like such a contract—if we would take such a contract. I answered, "Yes." He asked what commission we would pay him if he would obtain one. I told him that would depend upon the service performed—would be a matter for the directors—that I believed they would deal liberally with him. What do you call liber-

ally? he asked. I told him, "I could not tell in dollars and cents; it would depend on circumstances." "What do you think of a dollar apiece?" said he. "I should call that a big price," I answered. I was writing at my desk, and, after a little hesitation, I said, "Do what you can, and I will submit it to our directors." "Who are your directors?" he asked. "I would like to know the men I have to deal with." I told him their names, and here ended this interview. No reference at this interview was made to any former conversation, further than I have mentioned, about the 50,000.

Mr. Blake. Please state what you told him were the directors' names.

A. Mr. Anthony, Richard Borden, Philip D. Borden, Rufus Waterman. Nothing further occurred, and I had no conversation with any one upon the subject until, upon the 6th of July, I received Mr. Norris's letter of the 4th.

Q. Let me ask whether at this time you told him that you would give him a compensation equal to all over $17 per musket, or anything of that kind?

A. Not one word of the kind was said.

Q. Had at this time you communicated anything to the directors upon the subject of going into the arms business?

A. Only in relation to the Newman contract; nothing whatever in regard to the Springfield musket.

246

Q. Did you state how long this interview was?

A. I do not think it exceeded 3 minutes. It was a very hurried conversation, as he seemed to be in a great hurry to go to the cars. It was at my counting-room.

Q. Had you, up to this time, any further knowledge of the outlay necessary, or of the nature of the business, except from what investigation you had given to the Newman contract, and such information as you had gained from persons interested in that?

Q. You did not see him after that time, I suppose?

A. The first intimation was this letter. The letter is as follows:

[Copy.]

WASHINGTON, *July 4th*, 1861.

JOHN B. ANTHONY, esq., *Treasurer, Providence:*

MY DEAR SIR: The object of this is to say I think it most important that you shall come here at once. I have just left Col. Ripley, having had a long interview with him. I am satisfied a contract can at once be obtained for 25,000 arms, if they can be satisfied that you can build them as we talked on Tuesday last. I distinctly told him you were ready to contract for the above number, agreeing to turn out 2,000 in four months, and that number each month after. He as good as said he would recommend the Sect'y to make such a contract, but, as he is absent from town for a day or two, he cannot see him, but will do so at once on his return. He tells me that the Sect'y has about determined to give out four contracts to four parties

who have applied, but that he (the Col.) would be disposed to recommend an additional contract *with* your company from my strong representations as to what you can do. The price was not mentioned, and I did not consider it wise to mention it at present. That
247 I know can be fixed satisfactory. I therefore would advise your getting all the letters that will give influence, and coming on at once fully prepared to act. Political influence can be obtained here, but what will do more good are strong letters as to your ability to do work right and to push it through. I have said only what you said I could say, but I *have* put it to Col. Ripley in the strongest manner possible, and I feel sure your coming will secure your desires. I shall remain, and shall expect you Monday or Tuesday—the sooner the better, I think.

I am, my dear sir, faithfully yours.

(Signed) SAM'L NORRIS.

P. S.—I was half disposed to telegraph, but tho't a letter w'ld more fully give you my reasons why present effort should be made.

This was received on Saturday morning, the 6th of July. I went in pursuit of Mr. Waterman, who is one of our directors. He was out of town; would not be home until Monday morning. I did nothing further in regard to it until Monday, when I obtained an interview with Mr. Waterman, and replied to Mr. Norris as follows:

I found Mr. Waterman on Monday, the 8th.

[Copy.]

PROVIDENCE, *July 8th*, 1861.

SAM'L NORRIS, Esq., *Washington:*

DEAR SIR: I received your letter of 4th on Saturday, 6th instant, but was not able on that day to see Mr. Waterman, whom I desired to confer with in the matter, and who is one of our directors. I cannot come to Washington at present, as I have to make a trip now in quite another direction; besides, it seems hardly possible that the government would pay for muskets a price at which we could afford to contract for 25,000, we requiring new machinery and tools for the purpose, and with the prospect that when this lot should be
248 completed we should have no further business in this line. However, if the price paid is 17 d'ls ea., it would amply pay to make the investment. If you will advise me further in this matter of any information you get that would be for our interest, I shall be glad for you to do so. You do not give any special direction, I must therefore simply address you at Washington.

Yours, very truly,

(Signed) J. A. ANTHONY, *Treas.*

Q. What further information had you on this subject which would enable you to say that at the price of $17 you could make the investment?

A. None, whatever; it was all based upon the supposition that the figures in regard to the Newman estimate were correct.

Q. What outlay was you calculating upon?

(Mr. Bradley objected.)

Mr. Thurston. I want to show what basis of extent of expenditure he was assuming in his mind as a basis upon which this $17 would be an ample compensation. He does state that $17 per musket would, in his judgment, repay investment. Now, that it might not be argued that $17 would amply pay for the investment, whereas the fact is now asserted to be that it would not pay, I wish to know what extent of investment he had in his mind.

Court. You may answer.

A. I supposed the investment would not exceed $50,000, and that the cost of the musket would be about $10. At that time I had never seen or examined the Springfield musket; had no opportunity to compare it with the Birmingham musket, and supposed it to be about the same thing.

Q. As a matter of fact, did you know at this time anything concerning the system of the Springfield musket with reference to the capacity of all parts to interchange with all other parts.

A. I knew nothing of it whatever. One thing I have omit-
249 ted, and would correct myself. At the interview on the 2d of July this further question was asked: "Can you turn out 2,000 muskets in four months?" My reply was, "I think we can." This was the number that Mr. Foster assured could be turned out of the Birmingham musket, and the time he said they could be turned out in.

Q. What further occurred in the chronological order of events?

A. On the 12th of July I received Mr. Norris's letter, dated the 10th. This letter of the 8th to Mr. Norris was written after my conversation with Mr. Waterman, who was one of the directors, and the only resident director I could consult with at once. He stated that he doubted if our company would go into the manufacture of muskets. This letter was written in consequence of his doubts, and my own, upon that subject. Mr. Norris's letter is as follows:

[Copy.]

WASHINGTON, *July 10th*, 1861.

J. B. ANTHONY, Esq., *Treas'r, Providence:*

MY DEAR SIR: I am this morning in receipt of yours of 8th inst. I regret you not being here. I have expected you since Monday morning. I again repeat, that if a contract can be obtained at all the price would be satisfactory to you. Had I not have been confident of this I sh'ld not have advised your coming. Col. Colt has already secured a contract for 25,000. There are several others in the field. I am to see the Sect'y of War to-morrow, with Senators Simmons and Anthony, and shall make a strong effort for a like contract. You will remember you stated to me you c'ld produce 2,000 in four months of the Springfield pattern. This I have stated to the head of the

Ordnance depa't. I have also said a like quantity c'ld be produced each month after. I think, however, you could increase somewhat. Of course, I shall try for all the time I can get for first delivery, and the smallest quantity. What I want, however, is to know by telegraph from you if 4 mo's in time is sufficient, and 2,000 in quantity can be ready for the first delivery, if the getting of the contract depends on that time and quantity; also, if 2,000 per month can
250 be produced each month after till the whole 25,000 are completed. The arm to be the Springfield musket, and the price to be not less $17. If you can do this, it may not be necessary for you to come on; for if the contract can be obtained in accordance with the above, and you see fit to empower me to act as your attorney, I can complete the transaction, only remarking that y'r instruction w'ld be my guide sh'ld you get this contract. I can help you very much in providing you, I think, with machinery and men; at any rate, with information concerning both that would be invaluable to you. I now hold the power of att'y of the Hope Iron Foundry, and Mr. H'y W. Gardner, for which parties I have been acting. If reference is needed, I beg you to refer to Mr. T. D. Bowen. I w'ld suggest y'r sending me letters to our senators, or the Sect'y, or both, from Mr. Waterman, Mr. Bowen, and any others that w'ld give might and influence. This is a large matter and promises great advantage to y'r company, and R. I. deserves the contract; and no effort of mine will be wanting to secure it, I assure you. If I do anything, it will be done right and to your satisfaction.

I am truly yours,

(Signed) SAM'L NORRIS.

P. S.—I hope you will use the telegraph, for the chance may be lost. I shall remain here till I hear from you.

S. N.

On the same day I replied as follows:

[Copy.]

PROVIDENCE, *July 12th*, 1861.

Mr. SAMUEL NORRIS, *Washington:*

DEAR SIR: I have your valued letter of the 10th. I doubt if we could turn out 2,000 muskets in 4 months, but after we got started could produce 2,000 a month. We ought to have 5 mo's to produce the first 2,000 in. I cannot say *positively* that our company would make a contract at any price. What I desire to do is, to get
251 all the information possible in the matter, and go so far with a contract that we can secure one if we wish. I can then report to our people, and an immediate decision can be made. Being without tools or machinery, it is quite different for us than for those already in the business. Still, I should think government, at the present time, would offer such inducements as would make for our interest even to do the work.

Yours, very truly,

(Signed) J. B. ANTHONY, *Treas'r.*

Q. Had you up to the date of this letter made any further inquiry and derived information as to the extent of capital necessary to be engaged in the business?

A. None whatever. On the 13th, which was Saturday, toward evening, I met Mr. T. D. Bowen in the street.

Mr. Bradley. Conversation directed in our absence is not proper evidence.

Court. No, I don't think it is.

Q. Did you at this time, just prior to the writing of the letter I am now about drawing your attention to, ascertain as a fact from any source that a contract was likely to be obtained there from Mr. Norris?

A. After the conversation with Mr. Bowen he showed me a letter he had just received from Mr. Simmons.

Q. Without stating what that letter was, did you then write to Mr. Norris, and if so, what?

A. I met Mr. Bowen in the street; it was just or about the time for the New York mail to leave. I went into Mr. Whitney's book-store and wrote a few lines to Mr. Norris, of which I kept no copy. That letter has been produced by Mr. Norris in his testimony.

Mr. Blake. Don't you enter in your book a copy of the letters you write?

A. Yes, sir. It was just at the time of the departure of the New York mail. I had barely time to write it. I stepped into the book-store and wrote it there at the counting-room, consequently I re-
tained no copy. In that letter I proposed to delay my visit
252 leaving for Washington till Monday evening. The object of
that was that I might be able to consult with my directors, two of them residing in Fall River.

Q. The gentlemen stated that they wanted the letter. As they desire it, I will put it in now.

WASHINGTON, *July* 11, '61.

MY DEAR SIR: Gov. Anthony and myself have this morning visited the War Department, with Mr. Norris, of Bristol, who professes to act for and in behalf of the Providence Tool Co., and have had authority given Gen'l Ripley, of the Ordnance beauru, to contract for the manufacture of a large quantity of arms, dependent in some degree on the expedition with which they can be turned out. We have said a good deal of your ability and responsibility, but no more than we think you deserve, and hope you may make a good job of it.

Yours, very truly,

J. F. SIMMONS.

EDW'D PEARCE, Esq., *Providence, R. I.*

P. S.—Mr Angell is here looking after the interest of the Screw Co.

J. F. S.

Q. When you had seen Mr. Simmons's letter you went and wrote the following:

(Copy.)

PROVIDENCE, *July 13th*, 1861.

Mr. SAML. NORRIS, *Washington:*

DEAR SIR: I have to-day rec'd your letter, and as a matter of encouragement to you, have to say I have information from another source that your endeavors to secure a gun contract for our company will be very likely to be successful. I have also just had an interview with Mr. T. D. Bowen, who has strengthened me in this belief. It is my present purpose to leave here for Washington Monday evening, and I shall be glad to meet you. If I make any other
253 arrangement, will advise you by telegraph.

Very truly yours,

(Signed) J. B. ANTHONY, *Treasurer.*

A. Not having before me the letter of Mr. Norris of the 11th, I have not read that in its proper order. That was received the same day. It is as follows:

WASHINGTON, *July 10th*, 1861.

J. B. ANTHONY, Esq., *Treas'r, Providence:*

MY DEAR SIR: I am this morning in receipt of yours of the 8th inst. I regret your not being here. I have expected you since Monday morning. I again repeat, that if a contract can be obtained at all, the price would be satisfactory to you. Had I not been confident of this I should not have advised your coming. Col. Colt has already secured a contract for 25,000. There are several others in the field. I am to see the Secretary of War to-morrow with Senators Simmons and Anthony, and shall make a strong effort for a like contract. You will remember you stated to me you could produce 2,000 in four months of the Springfield pattern. This I have stated to the head of the Ordnance department. I have also said a like quantity could be produced each month after. I think, however, you could increase somewhat. Of course, I shall try for all the time I can get for first delivery, and the smallest quantity. What I want, however, is to know by telegraph from you if four months in time is sufficient, and 2,000 in quantity can be ready for the first delivery if the getting of the contract depends on that time and quantity. Also, if 2,000 per month can be produced each month after till the whole 25,000 are complete. The arm to be the Springfield musket, and the price to be not less than $17. If you can do this it may not be necessary for you to come on, for if the contract can be obtained in accordance with the above, and you see fit to empower me to act as your attorney, I can complete the transaction, only remarking that your instructions would be my guide. Should you get this contract, I can help you very much in providing you, I think, with machinery and men—at any rate, with information concerning both that would be invalu-
254 able to you. I now hold the power of attorney of the Hope Iron Foundry and Mr. Henry W. Gardiner, for which parties

I have been acting. If reference is needed, I beg to refer you to Mr. T. D. Bowen. I would suggest your sending me letters to our senators, or the Secretary, or both, from Mr. Waterman, Mr. Bowen, and any others that would give might and influence. This is a large matter and promises great advantage to your company, and R. I. deserves the contract, and no effort of mine will be wanting to secure it. I assure you if I do anything it will be done right, and to your satisfaction.

I am truly yours,

SAMUEL NORRIS.

P. S.—I hope you will use the telegraph, for the chance may be lost. I shall remain here till I hear from you. S. N.

Q. At the time of this interview with Mr. Bowen, when he showed you the letter of Mr. Simmons that has been read, did he or not refer to other letters from Mr. Simmons or any one else?

A. I was about speaking of this. The conversation commenced by Mr. Bowen inquiring if I had any correspondence or communication with Mr. Norris in regard to making muskets. I told him I had. He said he had received several letters from him, but had said nothing to me about them before. He wanted to know how the matter stood. He made no reference to any letters from Mr. Simmons except this one.

Q. Now we will proceed with the order of events.

A. On Monday morning, the 15th, as I was arranging to go to Fall River to see my other directors I met Mr. Waterman, who said he had received a telegram from Mr. Edward Pearce, saying that a contract for 25,000 muskets had been signed.

Mr. Bayne. Is he one of your stockholders?

A. Yes, sir, Mr. Pearce being in Washington at that time. I went to my office soon after and found a similar telegram from Mr. Pearce, and gave up the idea of going to Fall River to consult my directors. In the afternoon I met Mr. Tully D. Bowen, who said he had just received a telegram from Mr. Norris to the
255 effect that he would be at his office at 4 o'clock the same afternoon. He desired me to meet Mr. Norris there, for he said his first business will be about compensation. I was in Mr. Bowen's office when Mr. Norris arrived, and in the back room had some conversation with Mr. Norris. After telling me he had the contract in his pocket, and stating what the terms of it were, rather delaying to show it to me, he asked me, "How do I stand about commissions?" in Mr. Bowen's back office. Mr. Bowen was there for a moment, but stepped out, and heard, perhaps, part of the conversation.

Q. Agitated the delicate subject of fees?

A. I said, we shall pay you liberally for your service. At this time I had not read the contract, and knew nothing of it except the statement Mr. Norris made in regard to its great value. He spoke of some appendages being required which had not been spoken of before, but thought that the change in the style of the musket was

quite equal to the cost of those appendages. I asked him what compensation he expected? "I expect what was agreed," he said, "all over $17." My only answer was, "When?" Then he went on to argue the case. "You promised all over $15 if the number was 50,000. The difference between $15 and $17 is equal to the reduction of the amount of the contract, and I expect all over $17 now. This is a chance that does not happen more than once in a man's lifetime." The difference was equivalent to the reduced number. This was the first I had heard of any such agreement as to paying all over $15. I supposed I was talking to a gentleman, and did not like to flatly contradict him. I said, "It may seem peculiar, but I do not recollect any such thing." I asked him to meet our directors the next morning.

Q. Was there any reply?

A. No reply, except he seemed very much astonished. I asked him to meet our directors the next morning, and in the mean time to consult Mr. Bowen, who was his friend. Tuesday morning, the 16th, our director, Mr. Bowen, and Mr. Norris, met at our office. Mr. Norris detailed his story.

Q. What was it?

256 A. To the effect that he considered himself entitled to all over $17. I did not understand him then as claiming that there was any such positive agreement. He considers himself entitled to all over $17, claiming that I had agreed to give him all over $15 if the number was 50,000.

Q. State the language from which that inference arose, as nearly as you can.

A. He stated that I had agreed to give him all over $15 if the number was 50,000, and he made use of the same argument as before, that the number being reduced, the price should be correspondingly increased, and claimed, therefore, the excess over $17—claimed that 25,000 at $17 was as good as 50,000 at $15.

Q. What was the result of the interview?

A. We separated without any result.

Q. It was either at this or some other interview about this time that Mr. Norris, the plaintiff, in the course of his examination referred to riding down street towards the Exchange Bank, and the statement made by you that you would have signed the contract to give him all over $17. State whether any such interview occurred, and whether or not any such language as was imputed to you was used?

A. Mr. Norris rode down street with me on two or three occasions, but I never made such a remark to him.

Q. Did you ever make any statement bearing upon the subject, from which such a meaning could be construed?

A. None whatever. On the 26th of July Mr. Norris came to my office, according to previous appointment. I handed him the letter which I held in my hand, and said to him, "That is as far as my authority extends."

Q. From whom and to whom? (Reads.)

A. Richard Borden to myself.

FALL RIVER, *July 26th.*

JOHN B. ANTHONY, Esq.:

DEAR SIR: Your favor of the 25th instant is received. I have conferred with Mr. Bowen, and we have come to the conclusion to recommend that you offer to contract to pay Mr. Norris 50 cents on each musket as fast as we get our pay for them, provided Mr. Waterman coincides with us. I think that a very liberal offer, and
257 think he will get more from the contract than the owners of the Tool Company. The contract is not what we hoped it would be, in consequence of the large amount the tools will cost. Howes' estimate for tools is three or four times as much as we expected they would cost before we made any inquiries.

Yours, respectfully,

RICHARD BORDEN.

Added to this is the endorsement of Rufus Waterman:

"In view of the circumstances, I authorize the payment of the sum named, believing it to be a very liberal compensation.

"RUFUS WATERMAN."

I handed that letter to Mr. Norris, and said, "that is as far as my authority extends." He threw it up, and said he should make no such settlement. He read it, or held it long enough to read it before his face. "At any rate," he says, "I should not wait until these muskets were made, and you got your pay before I had mine." He asked me what I thought of it, (of the proposition.) I told him I thought it very handsome. He said he did not, and did not believe I did. He asked for a reference of the whole matter to disinterested parties. I told him I had no objection—would consult our directors. Within a day or two of this time I met Mr. Edward Pearce.

Court. Was any answer given, in reference to that offer to leave it to disinterested parties? Did you afterwards propose it in conversation with the directors?

A. I have not arrived at it in that matter. This in regard to Edward Pearce occurred in the mean time.

Q. Pass to the next stage, when you communicated the offer.

A. On the 2d of August I wrote Mr. Norris a letter, of which this is a copy:

PROV., *Aug.* 2*d.*

SAM'L NORRIS, *Bristol.*

DEAR SIR: Referring to the proposition I made you the other day in regard to settling your claim of commissions, I must now
258 withdraw the proposition, and add that the directors decline referring the matter to other parties for adjustment. The claim must remain unsettled for the present.

Yours, respectfully,

JOHN B. ANTHONY, *Treas.*

On the 3d of August, Mr. Norris called and wanted an explanation of my note. I told him I thought the language was clear, and the whole matter was open, and I would submit any proposition he had to make. The same afternoon, possibly a day or two later, I met Mr. Norris at the Fall River steamboat landing. He desired me to submit this proposition to the directors: that he would settle his claim for $1 per musket. I told him it was useless to submit it, and I could not do so.

Q. Now, up to this time, when these propositions were made and were not declined, as well as also resulting in these, all being finally withdrawn, had you ascertained any facts concerning the actual service that Mr. Norris had rendered in Washington? State, generally, whether the fact was that you had ascertained the information, without being particular as to the details of what you ascertained.

A. I had ascertained but very little respecting it. During this time I had been in Washington, and had been told there by Mr. Pearce and Mr. Simmons.

Mr. Blake objected.

Mr. Payne. We cannot put it in, if you object to it.

Q. You had received some information?

A. I knew but very little respecting it. August 12th, I saw Mr. Norris. He asked me if he could not meet the directors the following day. He believed a settlement could be made. I wrote to Col. Borden the same day at Mr. Norris's request, and on the morning of the 13th received this letter in reply.

Mr. Bradley. Was it communicated to Mr. Norris?

A. Yes, sir, it was. It is as follows:

259 FALL RIVER, *August* 13, '61.

JOHN B. ANTHONY, Esq., *Treas.:*

DEAR SIR: Your favor of the 12th inst. is rec'd. It is not convenient for me to come to Providence at present. I think the proposition to Mr. Norris was very liberal, and more than we can afford to pay him, and more than he ought to have. I should not be willing to renew that offer at present—should rather let the matter rest until we are better informed what it will cost us to make them. I know of nothing necessary to call the directors together for, before our regular meeting. At that time we will of course consider any proposition he may make. I have this moment rec'd a letter from Mr. Wm. A. Morrison, which I send to you. Please reply to it. Mr. James Horner, who he refers to, I have been acquainted with for a long time. If you wish to inquire about Mr. Morrison of him, you can rely on his giving you a correct statement of him. I shall not answer the letter.

Yours, respectfully,

RICHARD BORDEN.

(Copy.)

OFFICE OF THE PROVIDENCE TOOL CO.,
Providence, Aug. 13th, 1861.

SAM'L NORRIS, Esq., *Bristol:*

DEAR SIR: Replying to my letter of yesterday, Col. Borden writes me to-day as follows: "It is not convenient for me to come to Providence at present. I think the proposition to Mr. Norris was very liberal, and more than he ought to have. I should not be willing to renew that offer at present—should rather let the matter rest until we are better informed what it will cost us to make them. I know of nothing necessary to call the directors together for, before our regular meeting. At that time, we will of course consider any proposition he may make."

I have only to add, our next regular directors' meeting will occur on Wednesday, 21st inst.

Yours, truly,
(Signed) J. B. ANTHONY, *Treas.*

260 Between the 13th and the 17th I was away from home. On the 17th, upon my return, I found Mr. Norris's letter of the 14th.

BRISTOL, *Aug. 14th,* 1861.

JOHN B. ANTHONY, Esq.,
Treas., Providence.

MY DEAR SIR: I am in the receipt of yours of 13th inst., and note its contents. The withdrawal of your company's proposition for settlement in your letter of 2d inst., and alluded to in yours of yesterday, I cheerfully accede to.

Will you be kind enough to enclose me a copy of my letter to you, dated July 11th.

Your proposition being withdrawn, I need hardly say that I now withdraw my proposition to settle at one dollar per musket. I cannot but think I am legally and justly entitled to my whole claim of three dollars per musket, and I made you the very liberal offer to settle at one dollar to secure a prompt and early settlement, which, for various reasons, it was very important for me to obtain.

I am, respectfully, yours,

SAM'L NORRIS.

August 21st, I wrote Mr. Norris as follows:

(Copy.)

PROVIDENCE, *Aug. 21st,* 1861.

Mr. SAM'L NORRIS, *Bristol:*

DEAR SIR: On my return from Springfield the other day, I found your letter of 14th inst., and noticed contents. All propositions having been withdrawn, the previous proposition made by us not being

in acknowledgment of any obligation, but for the purpose of buying our peace, and having now ascertained how the contract was obtained, and the parties who influenced it, we are willing to pay such expense only as you can show was incurred by you, while in Washington engaged upon your own business, this being a mere incidental matter.

Yours, truly,

(Signed) J. B. ANTHONY, *Treas.*

261 Q. Now had you at this time, (the contract being executed on the 24th, with the government,) did you make any examination, in company with any directors or persons interested in the Tool Company, into the investment necessary to be made, and the expenditure incurred, for the purpose of going into this business?

A. On the 17th of July, 1861, Col. Borden, Philip D. Borden, Thos. J. Borden, and Benj. R. Thurston, with myself, went to Springfield. The Mr. Thurston I refer to is our mechanical superintendent. The object being to investigate the matter in regard to manufacturing arms, and decide whether we would accept the contract.

Q. State what you ascertained from that.

A. We visited the armory in the afternoon and in the evening. At evening Col. Borden was inclined to give up the idea entirely of making muskets, and go home.

Mr. Blake. I would suggest that, to tell what some of the directors said would be inconsistent with the course pursued when our experts were asked, although upon a subject they had been familiar with all their lives, what information they had derived from a particular person: it was objected to and was not put in. I would suggest that they can give only that information which no particular director said.

Mr. Payne. Indicate what you want, and we will try to accede.

Q. State what you discovered as to the amount of investment required as the result of that visit.

Mr. Blake. If he got an offer to make a particular machine or the whole machinery and tools, and states that that was an offer he had, it would show what was the market price. To give information short of that what somebody told him, without showing that it was the least he could get the whole machine made for, does not seem to be any such thing.

Mr. Thurston. If there is any way this fact can be proved except in the way we now propose, I do not at present see what it is. These gentlemen made inquiries from the parties from whom they would have to obtain their machinery, and ascertained that they would
262 cost about so much in general, and then we can go into the detail as far as necessary after they had ascertained.

Court. Did you ascertain the cost of machines, tools and machinery?

A. We made inquiries of the master armorer and superintendent as to whether we could obtain a model and gauges suitable to go on with our work—whether we could get them to make gauges for us,

We ascertained that we could not, and until then we had no idea of the obstacles we had to encounter.

Q. That was your first experience in finding out what the Springfield musket was?

A. That was the first. We found we could neither have a model or gauges from the armory. This was the 17th of July.

Q. Did you go into the subject of the investment necessary to be made to make the machinery, or didn't you go so far?

A. Not at that time.

Q. Did you go to any other place than Springfield?

A. We left Col. Borden at Springfield, and the same evening went to Hartford. I am wrong; Col. Borden went with us to Hartford; we left him afterwards.

Q. What was the general object, without going into the details of the prices of information you acquired and the places you visited; what was the general purpose of this tour to Springfield and Hartford?

A. It was to ascertain the extent and cost of preparation necessary.

Q. Now state, in answer to that object of pursuit, the result.

A. We got no definite information at Hartford; we got none at Springfield—no particular figures. We began to see the work we had got to do.

Q. During the whole of that tour did you find out any specific information upon any one of the subjects necessary to be informed about of the cost of investment?

A. Nothing.

Q. Did you go to any other place beside Hartford?

263 A. We went to Middletown, Conn. We visited the establishment at Middletown; we went there to see Mr. Howe. We found Mr. Howe had gone to Providence, and telegraphed to him to remain there, and we returned on Friday.

Q. With respect to Mr. Howe, I shall ask questions by-and-by. I shall ask whether you derived any information from any source of a reliable character relative to the amount of money you would be obliged to expend in order to go into this business?

Mr. Blake. That is what we object to. We might have gone into the cost of the gun; that would have been definite. But this is asking what machinery was to cost without knowing what it was. If he could say he applied for particular machinery and found he could get it for so much, and not for less, that would be admissible.

Mr. Thurston. We propose to show just what Mr. Blake has argued, and which is the point we make, that neither from any source of information like that of which I have been inquiring, or any person actually engaged in this business, did this concern succeed in ascertaining the amount of expenditure necessary to go into this business. In the mean time the 24th of July arrived, and the defeat of Bull Run occurred, and they executed this contract because they supposed from this political fact that there would be a large demand for arms, rather than from any information they had acquired as to the expenditure; and if they had known these facts and the expenditure alread

involved, even with this political fact they would not have gone into it. They signed this contract, not because they knew what they were going into, but they supposed there might be a demand for muskets. (Just as our army went away from Bull Run.)

Mr. Bradley. The ignorance of these parties in regard to the contract is of no consequence at all.

Court. Supposing it turns that it was not a valuable contract?

Mr. Payne. The gentleman took a point in the opening that we accepted the contract knowing all about it, and knowing all
264 about Mr. Norris's claims, and that therefore we were not at liberty to set up this defence of the want of value.

Mr. Bradley. The point is, that these parties and directors did know of these claims, and knowing of it all, accepted the contract. They would like to have the benefit of the contract, but still get rid of the price the gentlemen agreed to pay for it. I did not take the point that they did know or did not know what they were going into. Let us not have any more time taken up to show that they did know or did not knew what they were about.

Mr. Thurston. If the counsel mean to say that they do not mean to present this view of the case to the jury, that after the contract was tendered to us we went to Springfield, Hartford, and elsewhere, and made an examination, and after that examination, assuming that we had derived information, and in full knowledge, therefore, of what we were to go into—if they intend to take that ground, then we should be allowed to show that it is probable that in this we derived no information.

Court. That you have shown.

Q. Now state, Mr. Anthony, when, in fact, the contract was signed.

A. It was signed on the 24th of July. I left for Washington on Friday evening, the 19th, reaching there on Saturday evening, the 20th. On the return from Springfield I started for Washington on Friday evening.

Q. How long did you remain in Washington.

A. Until Monday evening, the 22d. I was there during the retreat from Bull Run. (The masterly advance on Washington, or the strategic movement.) I had an interview with Gen. Ripley, the chief of ordnance. I told him we could not go on unless we had a model musket and a set of gauges. He said it was impossible for them to furnish them. He desired that we go on, however, with the work and drive it as rapidly as possible, the government being in great need of arms. This was the Monday morning following the battle of Bull Run, and the whole city was in disturbance.

265 Q. Did the affair of Bull Run have anything to do with the acceptance of the contract?

A. It had a great deal to do with it. I left Washington Monday afternoon, the 22d, and arrived home the evening of the 23d, and by previous appointment met our directors and Mr. Howe on the morning of the 24th. In the mean time we had prepared for us a schedule and list of the machines and tools required, and gave us an estimate of the cost of the building and muskets, and of the length of time

necessary to turn them out. His estimate for tools and machinery was $120,000, the cost of the musket $15, and the length of time necessary to turn them out as twelve months—to turn out the first delivery. Some of our company and directors also thought that after so much delay in investigating the matter, the Bull Run reverse having then occurred, we ought not then to refuse the contract, but had better sign it and go on with the work. The contract was signed on the 24th, the same day, and sent to Washington.

Q. After the execution of the contract you then proceeded to make the necessary arrangements for carrying it out?

A. At once.

Q. And you, in pursuance of that, had already obtained from Mr. Howe the estimate you have named?

A. Yes, sir.

Q. Now, will you state what difficulties you met with in the way of carrying out the plan you had in view? State the difficulties you met with, with reference to getting the machinery and the tools necessary to make the work, not tools, but machines themselves.

A. Mr. Howe and myself visited a number of places endeavoring to secure machines already built, but there were none. At Hartford we hoped to buy a parcel of machinery, used formerly by the Arms Manufacturing Company, but this in the mean time had been sold. We went to Philadelphia, and there made arrangements with a machine builder to go to work for us as soon as possible, he
266 having some work on hand that must then be first finished.

Q. State whether or no the machine tools you had on hand—lathes, planers, and others of that class—were not all fitted to make any of the *parts* of *of* a musket.

A. We had nothing whatever that has been brought into use in the manufacture of a musket, not $500 worth, at least. We had a single press that has been used.

Q. How did you find the prices that you had to pay for machinery correspond with the prices for similar machinery as they had been before this period?

A. Very considerably increased. There had immediately, very suddenly, sprung up a large demand for all this class of tools for machinery.

Q. How, in fact, did you find that your deliveries of machinery were made at the times that they were contracted to be delivered?

A. Very much delayed. We have received at our armory within ten days machines that on the 2d of August last parties contracted to build and deliver to us within six weeks.

Q. You have received within the last ten days machines contracted to be delivered at the middle of September last?

Mr. Hazard. What kind of machines?

A. Rifling machines for rifling the barrels. We have received nothing, I think, within the time agreed.

Q. About your building which you proposed to use for the purpose of introducing this machinery. What did you use, and what changes did you make in it; what expenditure did you go to in that respect?

A. We have made some additions and alterations necessary in the building, and up to the first of July, 1862, had expended upon the building and shafting $23,475 96.

Q. In that sum do you include the amount for which the buildings and lands stood you in before?

A. This amount was expended upon the buildings.

Q. What was the cost of the property or the fair value of the property which you used on which you put the $23,475 96?

A. The fair value of the property we rated at $73,744.

Q. Was that the whole property, buildings, shafting, &c.,
267 within which these operations were to be carried on; that is, a total of $97,219 96?

A. That is merely the buildings and shafting.

Q. Does that include the steam-engine or motive power?

A. Steam-engine, shafting, boilers; but no movable machinery whatever.

Q. Is the building now completed, or have you any further additions to make to it to fit it for the purpose designed?

A. We have further additions.

Q. Can you state to what extent alterations will be necessary, or give us a reasonable estimate.

A. I think the amount yet to be expended is not much; perhaps a thousand or two dollars will cover it; I am not certain about that.

Q. Bring it up to $100,000?

A. Yes, sir; or very near it, at any rate.

Q. Now, with reference to another difficulty you have met with, let me ask if you found trouble in obtaining skilled labor to manage and superintend the various processes involved?

A. We found it was almost impossible to obtain any skilled labor. We were not allowed to employ any man who was at work in the Springfield armory, and we found that by employing any from private armories we should cut off any opportunity we might have of getting information from them.

Q. Do you mean to say that you were depending to some extent for information on individuals engaged in similar business?

A. If we got away their men they would not have anything to do with us. If we got away men from the Springfield armory the superintendent said he should use his influence to have the contract annulled.

Q. How did you acquire the information necessary to teach the subordinates?

A. We employed Mr. Howe as general superintendent and master armorer, he being thoroughly acquainted with the whole work—was able to teach most of his men.

Q. Now, as there has been in this connexion some testimony
268 on the qualifications of Mr. Howe, coming from the other side, state where you obtained him, and upon whose recommendation.

A. Mr. Howe was living in Middletown; he was recommended very highly by Mr. Lawrence, the superintendent of Sharpe's Rifle Factory Company. We made inquiries of several other parties at the

armory and elsewhere in regard to Mr. Howe's qualifications, and were well satisfied to employ him, and we accordingly did so.

Q. Was he, or not, about the only man that would come immediately to instruct the labor that you were able to employ?

A. About the only one at that time.

Q. Now, will you state any other difficulty that you encountered, and of which you have knowledge, as, for instance, in the expense required for the fixtures and tools necessary to adapt the machines to the work to be done?

A. One of the first things that called for our attention, and which we were cautioned against in regard to the difficulties attending it, was the procuring rolls and suitable men for rolling the barrels, also procuring iron for those barrels. We found there was but one set of rolls available, and two sets in the country, one of them at Richmond. There was up to that time but one man who was able to roll barrels. There was no iron in use, so far as my information extended, except the Marshall iron imported from England, and we were told that the government exhausted that supply.

Q. You have spoken of the fact that rolls were employed for the purpose of rolling the barrels, also spoken of the iron used. I will ask you whether, in fact, "that" is a specimen of the plate from which the barrel is made? (Exhibits a plate of Marshall iron.)

A. That is one of the barrel plates; that is a specimen of the Marshall iron for barrels, the description which we now use. We did not use it to begin with, because we could not get it.

Q. Complete what you had to say about the expense for fixtures and tools to connect the machines with the work to be accomplished. What did you do to get a pair of rolls?

269 A. I had several interviews with Mr. Washburn, of Worcester, who agreed to make an attempt to turn out a pair of rolls. It had never been done in this country.

Q. After he had turned out the rolls for you, did they work well?

A. There was quite a long time before we got the rolls at all, and when we obtained them we could not get a perfect barrel.

Q. Did you not spoil a large number of plates attempting to get the barrel?

A. A large number.

Q. Let me ask whether, when that plate is subjected to the rolls, is in shape like a barrel, it can be made into a complete barrel by any process you know of?

A. Not by any process I know of.

Q. The cost of each plate is how much in that shape?

A. The present cost is more than it has been. The cost at that time was more than it had been. The advance in the cost is about 20 per cent. The contract we made some time ago; it cannot now be duplicated.

Q. At this day you have to pay $120 on each plate imported, and could not make another contract on as favorable terms to-day?

A. No, sir, I think not.

Q. This increase of 20 cents over what it cost is due to the rate of exchange ruling between this country and England?

A. Yes, sir, chiefly.

Q. The other fixtures beside the single one of rolls: state, generally, the number required, and the comparative expense for fixtures, without reference to the cost of the machine.

A. The fixtures, all or most entirely all, had to be made in our own shop; we could not buy any of them scarcely. With one or two exceptions we could not buy any, nor could we get them made elsewhere to insure accuracy.

Q. Have you means of stating how the cost of fixtures necessary to be used compares with the cost of the machines with which they are to be connected?

A. The cost of the fixtures I believe to be $\frac{2}{3}$ or $\frac{3}{4}$ the cost of all the machines.

Q. When you speak of fixtures, to what do you refer?

270 A. I call "that" a fixture on the right; that is the only one I see.

Q. As to the degree of accuracy with which they must be made, and their character as fixtures in view of the work they are to do, do you feel competent to give us information on that subject?

A. I do not consider myself as an expert in the matter: have not had sufficient acquaintance for a sufficient length of time. My acquaintance does not date back further than last August or the last of last July.

Q. You have been intimately connected with all the processes that have been performed?

A. I have been almost constantly engaged in the business. It will take a great deal longer than that to learn it.

Q. On the subject of the rolls, necessary to produce the barrel, I would ask you a further question: How did you succeed in instructing barrel rollers, as there was but one barrel roller in the country?

A. The instruction commenced by a person who had been in the habit of welding barrels under trip-hammers. He commenced the experiments, and through him the men under him. They succeeded in rolling finally a good article, but after spoiling a very large number of plates.

Q. Do you mean to say their instruction has been such as they could pick up from their experience?

A. We had no other means than to send them to the Springfield armory, so that they might observe the operation. We sent the leading man several times.

Q. Was he permitted to roll any barrels?

A. Not at all; simply to make inquiry and to notice the operations. We were able there to get the dimensions of the rods that are used in rolling the barrels, and therefore to duplicate their set.

Q. State whether or not repeated adjustments were required of the rods which formed the interior cylinder of the barrel, and of the rolls themselves, that form the outside of the barrel.

A. It was a long time before we were able to get the rods to score

a barrel and draw together to form a perfect barrel. The rod must compare with the score of the barrel.

271 Q. You mean the rod passes on the inside of the barrel to give it form while the scores are rolled?

A. Yes, sir.

Q. You stated that you were told by Gen. Ripley, prior to the execution of the contract, that you could not get the model gun, and could not get the model set of gauges; what difficulties did you meet with in order to supply that want?

A. Gen. Ripley said we should have from Springfield, as early as possible, a gun selected from their stock, as accurate as possible in its dimensions, and from that we must get out the muskets required, giving us merely a pattern to work from, not a model. We made our gauges, being careful that the gauges were always a little small, if they were receiving gauges, in order that they might be filed out a little, to be verified by the Springfield gauges. If plugs or otherwise, we made them a little larger. We hired a shop in Springfield, and sent a number of men there with machinery and tools for the purpose, and there they have been engaged in verifying the gauges by the United States gauges, being able to take from the armory one at a time.

Q. How long has the shop been maintained in Springfield for that sole purpose?

A. We commenced operations there in December, and previously had worked upon the same thing at the armory. We were allowed to work at the armory until other parties applied for the same privilege; then we were obliged to seek quarters elsewhere. We began the shop, I think, in December, but worked at the armory on an earlier day.

Q. Are parties permitted to work in the armory now?

A. I have known of only one, and that by a direct order from the Secretary of War. That one was Mr. Jenckes of Philadelphia. I was told by Major Dyer that if I could get the same kind of an order as Mr. Jenckes had, he would turn over to me the whole armory, or any part of it.

Mr. Bradley objected.

Mr. Thurston. I have a right to prove a rule of the department.

Mr. Bradley. The last witness we had on the stand, when he was going to state the cost of a musket, and had the statement, was not allowed to read the written statement.

272 Q. It would have required an order from the Secretary of War to turn over any part of the armory for private purposes?

A. Yes, sir.

Q. Can you state in regard to the extent of accuracy required of you as manufacturers of these specific parts?

Mr. Bradley. That was precisely the question we were not allowed to ask of our witness.

Mr. Thurston. I do not press it.

Q. Now, will you state, having gone through with the various difficulties you met in your path, what state of progression you are

now in with respect to your capacity to deliver any muskets under this contract?

A. We have delivered none yet, and are unable to at present. According to the best of my judgment, it will be three months before we can furnish a musket complete.

Q. State, generally, in your efforts to get this establishment in successful operation, to what extent you have exerted yourself, as the representative of this corporation, with respect to diligently performing the duty required of you.

A. I have devoted my time to it without any interruption or cessation whatever, and brought to my aid the best mechanical assistance I could command.

Q. You have been untiring in that matter?

A. I think so.

Q. What expenditure (exclusive of the items of expenditure for the building and its appurtenances) have you been at already for machinery and tools?

A. On the 1st of July the amount of expenditure for machinery and tools had reached the sum of $107,510 44, exclusive of all running expenses, office expenses, interest, salaries, taxes, travelling, or supplies.

Q. What sum of money, if you can state, will it be necessary to expend in order to complete the machinery required to perform this contract, including those expenses?

A. The sum cannot be less than $200,000, in my judgment.

Q. Is this sum exclusive of the actual investment in building and appurtenances?

A. It is. Exclusive of the former investment, not exclusive of the additions, not exclusive of the $23,000, but exclusive of the $73,000.

273 Court. You say including those expenses; what expenses?

A. I mean running expenses—office expenses, interest, taxes, travelling, salaries, or supplies. I doubt if that sum will cover it.

Q. What sum will be necessary to cover those expenses not included?

A. Exclusive of interest, I think about $15,000.

SIXTH DAY, *Wednesday, July* 17.

Continuation of the direct examination of Mr. John B. Anthony:

Q. We were upon the point of the amount of investment made by the company, of which you are the treasurer, upon machinery, and the amount of capital required to carry on the business. I now inquire what it will cost your concern to manufacture a musket of the Springfield pattern, such as you—

A. According to the best of my judgment and information on the subject, it will cost at least $15; this not including interest, salaries, taxes, and similar expenses.

Q. What do you include under interest?

A. Interest on the investment in the business alone. Taxes means

State, town, and U. S. taxes; salaries means office and superintendent's, with those of clerk and master armorer.

Q. What sum in addition, should be charged to the cost of each musket, on account of these items not included in the cost stated at $15?

A. Well, that will depend upon the number of muskets we turn out. It is pretty difficult to state what that will be. Those expenses will not vary with the varied production.

Q. That is, they will be expenses that will go on and be a constant quantity?

A. Yes, sir.

Q. In order, then, that we may arrive at it, what can you
274 state that they would be upon 19 months, in the attempt to carry out the first contract of 25,000 muskets?

A. About $14,000.

Mr. Blake. What will these incidental expenses amount to during a period of 19 months, not including interest, but including office expenses, superintendents, &c.?

A. It will come to the sum of about $14,000, these various expenses in the course of 19 months—investment, taxes, salaries, office expenses, superintendents.

Q. The $15 cost of musket did not include interest, salaries, &c., but those would amount to $14,000 in 19 months?

A. The interest would be the interest on the sum composing the investment—$200,000. That would be about $19,000, in addition to the $14,000.

Q. That would make for those two items $33,000, would it not?

A. Yes, sir; $33,000.

Q. You have stated that the cost of the musket will be $15, and this $33,000 additional; how many muskets will you be able to turn out during these 19 months?

A. Not exceeding 11,000.

Q. You stated when the first delivery will commence, and that will be all you can deliver?

A. We cannot possibly deliver more than that; I do not think that—

Q. What will each one of that 11,000 cost you; will it not be $15, together with $33,000 divided by 11,000 muskets?

A. Each one will cost $18.

Q. Under the second contract that you have, how long, by its terms, have you to deliver the second 25,000 you have contracted to make?

A. Four months after the expiration of the first.

Q. All of them are to be delivered—the whole second contract—within four months of the time of the expiration of the first; in order to do that, what effect will be produced on your necessities in procuring machinery?

A. To turn out 25,000 in 4 months, the machinery must be very greatly increased.

275 Q. Can you now state what will be the capacity of the machinery you will be obliged to put in, in order to produce that result for an annual production after you get regularly started?

A. The present machinery is intended to produce one hundred muskets in 10 hours—day-time. The number cannot be doubled by working 10 hours in the night.

Q. Why could it not be doubled in the night?

A. There are many operations that cannot be successfully performed in the night; and then there is a certain class of men that we cannot get their equals to work in the night; we cannot duplicate the men.

Q. Your machinery, then, is equal to a production in 300 working days in the year of 100 muskets per day, or an annual production of 30,000?

A. That is the intention.

Q. You say, the machinery as it now is. Is that the extent to which you will find it necessary to increase it, to perform these two contracts?

A. It is, as far as we intend to go; not as far as we should be obliged to go, if we made the whole number in the time specified. It is as far as we desire to go, whatever the result might be.

Court. Q. You mean to say you do not think it advisable to increase your present machinery?

A. No, sir; not what we have at present, and what is now being made to complete our present arrangements. We have a good deal of machinery yet unfinished, to make out the amount required.

Q. Will you state in full to the court and jury all that transpired between Mr. Simmons and yourself, relative to any compensation paid to him for any matter connected with this arms contract, or any other arms contract? Did you ever pay him, or agree to pay him, one single cent upon this contract, which is the subject of this suit?

A. I will relate the whole account, and apply it where it belongs.

276 The first intimation of any kind that I ever had of Mr. Simmons was when, in Washington, the 22 of July, the day after the battle of Bull Run, I was walking with Mr. Simmons, and he said to me, "I have told Mr. Pearce," referring to Edward Pearce, "that if you were very successful in this contract, and made a good deal of money out of it, I should expect that, by-and-by, after you get through, you should make me a present of 20 cents a musket; I do not ask anything for my services, but I should hope, by-and-by, you would make me a present for my good luck." I made no definite reply. I am not aware that I made any answer at all. It was entirely a new idea to me. This was during the extra session of Congress, and upon Mr. Simmons's return to Providence. He several times, in his office—the post-office—and almost wherever I met him, suggested to me that he wanted a sum of money; he was about fitting out an expedition. I was not aware what expedition it was; I did not ask any questions; I did not care. I told him I could pay nothing for the contract; had no authority to pay anything for the contract; and the contract was worth nothing. He asked me to ask our company for authority to loan him $5,000, but I did not do that. Early in November he told me he was about going to Washington, and he must have some money from some source; he had a schooner

that was about sailing for North Carolina, and he needed still $5,000 toward her fit-out. And about this time I began to talk with him about another contract, and told him it was of the greatest importance that we secured another, for the first would be ruinous. He said he was going to Washington, and would see what he could do for us, but wanted that money before he went. I told him I had no authority to make such a loan. He asked me to lend him my individual notes, which he could get discounted before he went. I told him I could not do it. The next day he sent for me to come to his office, or his son's office, on the corner of Water st. I told him I thought he had gone to Washington. He says, "No, I am waiting for that money." I told him again I could not give it to him;
277 and the third day there was a similar interview, to the same effect. I told him it was of the greatest importance that we should secure the second contract, and that I would go to Washington with him. "Very well," he says, "we will fix up that money when we get to New York;" though at first he proposed to fix it up on board the boat; then he says, "We will do it in New York;" and I met him by appointment at the Astor House, in New York. I went on with him, but did not see him on board the boat that night, however, and did not mean to when I went on board. He told me in the morning he wanted to get his schooner insured, and wanted to buy some little articles to put on board. I told him I would loan him a thousand dollars of my own money, if he would pay it back, for that purpose. He said that was not enough, and we separated. I saw nothing more of him until I met him in Washington. We separated in New York, at the Astor House. I think he waited for the night train, and I took the train earlier in the day. In Washington I asked him to go with me to *to* the War Office, and see if we could not get that contract. I told him Secretary Cameron was getting in rather bad odor, and I was afraid we should not get it until he would be out; and if we did not get it, we had got a hard bargain.

Mr. Blake. You were sure to put in that.

A. Yes, sir. We went to the War Office. Mr. Simmons had some conversation with Mr. Cameron; I had none. We went to the Ordnance department, and Mr. Simmons left me there, saying he was going to the treasury, and would be back. I staid there until nearly time for the train to leave (the 5 o'clock train in the afternoon,) by which I wanted to go. In the mean time he several times asked me for that $5,000, and I as often declined. I went to the hotel and wrote a hasty note to him, saying that I could not pay him that money; asked him to still pursue the subject of obtaining another contract; and I left without seeing him again. On the way to Baltimore the train was delayed so that we did not make the connexion at Baltimore, and I was obliged to remain there over night; but a little way
278 out from Baltimore a young man came through the car looking for———. This was on the Philadelphia train the next morning. It was Mr. Simmons's son, or nephew, I don't know which; he had both of them with him; my impression is that it was the one who went out in this schooner, or was intending to go out. I believe it

was his nephew, though I do not know his name. I asked him how he came there. He said he left by the early train in the morning. I asked where he was going. He said he was going till he found me. I asked him what was the matter. He said, "Father," or "uncle," I don't remember which, "was very much disappointed in not seeing you last night." I asked him why. He says, "his schooner is at Fortress Monroe, and cannot sail until he has $5,000 from some source." I told him I did not know what I could do about it. I certainly could not pay him $5,000. We rode along for some miles talking about it, and he urging that it might be loaned or paid, as Mr. Simmons must use the money in Baltimore before the schooner could sail. I asked him what his instructions were from Mr. Simmons. He said, to go through to Rhode Island, and get it before he came back. I tore out from my memorandum book in my pocket a little piece of paper and wrote upon it that he might draw on D. H. Way, New York, for $5,000. I would provide the money, but he must say to Mr. Simmons that it was a personal loan. I had no authority to make it, and it must be repaid if accepted, and I alone must be responsible for it, as no member of our company, so far as I was aware, had any intimation of it. I placed $5,000 in the hands of Mr. Way, with instructions for him to pay Mr. Simmons's draft to that amount.

Q. State who Mr. Way is.

A. Mr. Way acts as a commission agent for our company in New York, selling our manufactures. On the 21st of November I caused this entry to be made on our books: "Expense account to Providence Tool Company: paid draft made at Washington on D. H. Way,
279 at sight, $5,000." I made no use of my name in this matter on the book; charged to expense accoun', that when repaid it might be paid back to that account, and no member of our company knew any thing about it, other than our directors, to whom I reported the *the* fact. Mr. Way sent the draft to me. I afterwards caused this entry to be made: "New York warehouse to expense account: this amount charged to expense account, November 21st, 1861, should be paid D. H. Way, New York, $5,000;" and wrote Mr. Way on the 17th of March as follows:

PROVIDENCE, *March 17th*, 1862.

D. H. WAY, Esq.:

DEAR SIR: Some time ago, say in November last, I authorized you to pay Mr. Simmons's draft upon you for $5,000. This upon my personal responsibility I agreed to loan Mr. Simmons. It was so understood by him, and stated by me at the time. I did not know but our company might assume it, and if they ever called for the payment, would not do so at present. The company, however, decline to have anything to do with it; and not wanting to embarrass Mr. Simmons at all, I wish you would write him at Washington, asking for a note to your own order for the amount. Date the note when the draft was paid: make it payable on demand. You may endorse the note over to me personally, with recourse, and I will hold you harmless.

Yours truly,

J. B. ANTHONY.

I enclose the dft., which you can return to him.

I have asked Mr. Way a good many times since if he had heard anything from Mr. Simmons, and he said he had not.

Q. Have you yourself spoken to Mr. Simmons on the subject?

A. No, sir, not since that time.

Mr. Payne. The money never has been paid, I understand?

A. Not that I am aware of.

Q. State why it was that, after these continued refusals to Mr. Simmons in Washington, you finally yielded to his desire upon his sending a special messenger from Washington?

A. I thought he was in a tight place, and I know I was.

Q. Now state what, unless you had obtained a second contract for the manufacture of 25,000 arms, would have been, from your knowledge now of your expenditure and other outlays to which you have been put, *would have been* your loss upon that 25,000 contract.

A. I would like to say further, in regard to the matter we were speaking of, I want to add my reason for letting him have the $5,000. It was this: that I knew perfectly well, from what had transpired, that it was of the greatest importance that we should have the
280 second contract. It appeared very certain that Mr. Cameron would not retain his position long, and I was afraid Mr. Simmons would not succeed as well with his successor as he would with Mr. Cameron; therefore, between the two evils I thought I chose the least.

Q. When was that second contract issued?

A. On the 26th of November, 1861. I calculate that we cannot possibly deliver on the first contract more than 11,000 muskets, for which we expect to receive $220,000. The cost to make those muskets will be $15 each, at least $165,000; the machinery and tools, additions to building, piping, &c., $200,000; making a total of $365,000. The amount received, $220,000, leaves a balance of $145,000, which would be then the net cost of our machinery and tools at that time, not taking into view the expenses of which I have already spoken—that is, office expenses, salaries, and the like.

Q. Now you have already figured up those expenses at $3 per musket, provided the 11,000 would do it. How would that affect the result?

A. That would make the net cost of machinery to us $178,000; that is, we shall have earned $22,000, which will be in this machinery. We have earned so much towards the machinery.

Q. At the expiration of that time how much will that machinery have depreciated? What can it be sold for in the market?

A. That is impossible to tell; it depends upon the state of things at that time. There would be an actual depreciation in themachinery. What would be its then value it is impossible to tell.

Q. If all parties were selling, it would be very much reduced in value, would it not?

A. Yes, if the demand was reduced, and the supply increased, there would be a very great depreciation.

Q. Suppose that there are no extraordinary circumstances, and that

the demand is no more limited; than usual what in ordinary times would second-hand machinery bring, and how much does it decrease?

A. Well, I *I* don't think it is possible to tell. It varies according to what the machinery may be, and for what purpose it is used.

The actual wear upon this machinery and these tools must be
281. at least 10 per cent. pr. annum.

Q. In this 178,000 dolls. you have named that the machinery would stand you in, there is a certain portion to be charged on ac. of additions to the building?

A. The $23,000 spoken of yesterday includes additions to building and stationary fixtures, like piping.

Q. As the result, you mean to say that all you could sell that machinery for over $178,000 would be what you would make; and if you could sell it for that amount you would come out square, and if at 50 pr. cent. depreciation you would lose $——,000, and at other per cents you would lose according to circumstances?

Cross-examination of Mr. John B. Anthony.

Q. (By Mr. Bradley.) Your counsel stated yesterday that your course in a certain transaction was one which your judgment and conscience condemned?

A. I do not know but that I might have stretched my conscience to pay him a little something if it was for interest, but my judgment was against it.

Q. You say to advance your interest you would stretch your conscience?

A. Yes, sir, in such degree as that.

Q. When Senator Simmons said to you that he wanted money about this gun business, and kept saying that, and you took up the conversation and told him you wanted a contract for more guns, I ask you if you expected to pay the price he asked?

A. I made no arrangement with him.

Q. When he wanted corrupt money for his services, you answered that you wanted his services?

A. Not in the same connexion.

Q. You have stated that when he told you he wanted this money in Providence, you told him you should want his service in obtaining the contract from the department?

A. Yes, sir.

Q. I will ask you to state to the jury whether you were green enough to suppose that money would be paid, or was it a mere cover of the mode of payment which you made for what he demanded?

A. I doubted very much if it would ever be paid.

282 Q. Whose money did you use in paying that draft, your individual money, or the money of the company?

A. I used the money of the Prov. Tool Co., and stated to the directors I would be personally responsible for it.

Q. You made that entry upon the books of the company and charged them with the money on the 21st Nov. I will ask you if the directors

of the company knew of that entry and the purpose for which it was expended?

A. I am not sure that they knew of the entry. They knew of the purpose.

Q That was the 21st Nov.; the transaction lay in that shape until the 27th March, 1862; that is to say, the transaction was explained to the directors on the 21 Nov. That entry remained upon your books, without any contra entry, without any correspondence or change in the shape of the transaction, until March 17, 1862. I will ask if Senator Simmons's deposition had been taken in the mean time?

A. I have not stated that the counter entry was not made till March. It was made quite near that time; I am not able to say when.

Q. We gave you notice to produce your books at this trial.

A. I will produce them by any trip of the boat from Prov. I did not want to have them away from the office. I supposed that I had that paper before me; the date of the entry was stated on the memorandum.

Q. This letter to Way is dated March 17, '62. Was the change in the form of the transaction on the books of the company made at or about the date of this letter?

A. It was made some time previous to the date of that letter; I am not able to say how long.

Q. You will produce your books, that we may see if the deposition of James F. Simmons was taken by you to be used in behalf of your company between the 6th day of Nov., 1861, and the 17 March, 1862. Was anything said frankly to disclose this transaction in this case?

A. No, sir.

Q. You now conclude, in the language of your counsel, to disclose this transaction?

A. The deposition was taken on the 4 Nov., 1861.

283 Q. Were you present when it was taken? Was it taken while Mr. Simmons was having this conversation in Providence about paying money for this service? Was it not signed on the very day he went to Washington on that business?

A. It appears that the deposition was taken at an earlier day than I supposed.

Q. When did you state you had your negotiations?

A. This first one was on the 22d July.

Q. You stated that early in Nov. he was urging you to pay him money. At the time those conversations were being carried on in Prov., did not the other transaction also take place? Were not the deposition and the promise of repeated service at Washington transactions which occurred at the same time?

A. The money was paid him on or about the 21st Nov. Some two or three weeks had elapsed after the deposition was taken before the money was paid.

Q. Did not this conversation in Prov., previous to going to Washington, take place about that time?

A. The conversations commenced as early as Sept., and continued on from time to time until he went to Washington.

Q. What else occurred between this 21st Nov., when the entry was made on the book, and the date of this letter from you to Mr. Way?

A. Nothing between Mr. Simmons and myself.

Q. Had you or not any intimation, after this deposition was taken and these entries made on the books, that some knowledge or suspicion of this transaction had reached your opponents in this case?

A. No, sir.

Q. What was the reason, then, why your company and directors, after having allowed the transaction to stand on their books since the 21st Nov., chose to make this disclosure?

A. They made no objection at this time, but a long time previous; I waited a good while before I wrote this letter, in order that I might make some arrangements with Mr. Simmons. Our company knew nothing about it; the directors did.

Q. Did you ever have any conversation with Edward Pearce about this subject?

284 A. Not until within a week of this time, or perhaps 10 days, while we were here before.

Q. Do you think, after hearing that conversation on Mr. Simmons, you had no further conversation?

A. I had no conversation upon that payment. Mr. Simmons told me at the time that Mr. Pearce had a conversation with him.

Q. How about this conversation between Mr. Simmons and Mr. Pearce?

A. I had heard of this conversation, but never a word indicating that we paid, or intended to pay, him anything.

Q. I want you to call your recollection again to that question, whether or no any member of your board of directors had any conversation with you, or in your presence, about the fact, or the suspicion of the fact, at least, that they declined to pay Mr. Norris, and were corrupted in paying Mr. Simmons for such services, had been brought to the knowledge of Sam'l Norris and his counsel. Did you ever know or hear of any such thing?

A. Not until after that date, the date of that letter.

Q. When did you first see or hear of it?

A. I think within a month.

Mr. Paine. At the time Mr. Norris went to Washington with complaints about Mr. Schubarth.

Mr. Bradley. Some months or so before you decided to make this frank disclosure in court, and after receiving notice from us to produce your books in court, having that notice and that intimation that we knew of the affair, you have concluded to have the transaction laid open?

A. The only question with us at all has been, in what way that disclosure should be made, in the direct examination or in the cross.

Q. You never thought of disclosing it until you thought it might be brought out in cross-examination?

A. I did not say so. What we hesitated about was, whether we should bring it out in the direct examination or in the cross.

Q. You stated that you had before you a certain memorandum; will you let me see it?

285 A. That is it, sir.

Q. I understood you to say yesterday that upon the memorandum there was an account of the conversation between yourself and Mr. Norris, as to the length of time it would take to produce a certain quantity of muskets; you said you omitted to state that in giving your narrative of the conversation, and after reading your letters from him you recurred to it.

A. I said my memorandum called attention to it.

Q. Is there anything in the memorandum upon that subject, viz: the amount of time it would take, &c.?

A. I think there is; but, on looking, find nothing but a pencil memorandum which I made yesterday on the stand. I made it after I read the letters.

Q. You had forgotten to state that you had authorized Mr. Norris to report in Washington that you could make a certain number of muskets within a certain time. Now produce the original memoranda which you kept of these transactions, from which this outline was made.

Witness produces the memoranda.

Q. Do you mean that these were made at or about the time of the occurrence of the transactions?

A. Soon after. I cannot say that is the first memorandum I made on the subject.

Q. I understood you to say that you made memoranda of the transactions at or about the time they occurred, and from these memoranda this outline was made.

A. I wish to state that at or about the time the transaction occurred the whole statement was written.

Q. I desire to get the first earliest original memorandum, if any such existed.

A. This is the first I have.

Q. I understand this is the oldest you have got now. What did you with the other memoranda?

A. They were scraps of paper; they were destroyed.

Q. Will you tell us when these memoranda were made?

286 A. That was the report I first made to our directors as early as September, I think. Then I added to it afterwards certain events as they transpired.

Q. You say that the largest part of this statement relates to transactions which occurred in June, and that this was made some time in September?

A. I think the first part of it may have been still earlier.

Q. You talk about the original memoranda. Can you give the jury any more definitely the date when you made out the original memoranda of the conversation?

A. As early as Sept., and my impression is somewhat earlier, but I cannot tell decidedly.

Q. I wanted to see how much truth there was in your statement that you had original memoranda of the transactions as they occurred, which you swore to. You stated you had —— some inquiry of the cost of the muskets, with a view to a contract for 100,000 from a house in New York. Who brought you the sample musket from which that order was to be made?

A. Here is a memorandum in regard to the delivery of 2,000 a month. I knew there was something that called my attention to it. Mr. Norris or Mr. Foster, I am not sure which, brought the sample musket. I guess they both came together.

Q. From whose possession was that musket obtained in Providence?

A. I do not know. I believe it to be Charles Jackson.

Q. Did you have any conversation at that time with Mr. Norris when he brought the musket there from these parties in New York?

A. Yes, sir.

Q. What conversation did you have?

A. The conversation was between Mr. Foster, Mr. Norris, and myself.

Q. What particular part of the conversation did Mr. Norris take?

A. I am not able to say.

Q. I am not particular about it, if it was in his presence, and you were all three together.

A. We were. I saw Mr. Foster several times alone.

Q. How many times did you see Mr. Norris upon the subject?

287 A. I do not know; several.

Q. Can you recollect what the conversation was you were about to say to him when the musket was brought?

A. I do not —— that I was proceeding to say any such thing.

Q. State what was said in his presence at that time.

A. The conversation was a general one in regard to who the parties were that were going to contract. Mr. Norris spoke of a banker in New York who was going to furnish the funds.

Mr. Bradley. Myers is the name. He had an office in New York and Vienna.

Witness. I think I recognize the name. I recollect the house of Wm. H. Newman & Co.

Q. You ascertained who the parties were that were desirous of obtaining a contract at New York?

A. I ascertained from Mr. Foster first who the parties were.

Q. Mr. Foster told you he had a friend, and gave his name?

A. I did not know his name until he was brought in.

Q. After seeing Mr. Norris and Mr. Foster about obtaining a contract from the New York house, you yourself went, as you state, in person, to see the house in New York?

A. Yes, sir.

Q. Do you or not understand, as a part of the law mercantile, that, when parties are brought together by an agent, the original party

cannot go round behind the agent's back and deprive him of his commissions?

A. I am not aware that we were brought together by Mr. Norris. He brought the name of the house and the sample musket.

Q. What is the practice of merchants in that regard?

A. I understand the position of a middle man as that of a broker.

Q. If the broker brings an application from a party for a musket contract, can the contractor go round behind him and make an original bargain without paying the broker?

Mr. Thurston. This may be an interesting abstract discussion on the laws of brokers. I do not see its application. Mr. Norris never was seen by any of these gentlemen of the tool company.

288 Mr. Bradley. The counsel says that Mr. Norris had never seen any gent. connected with the tool co. The agent has just stated that he had. I now ask him whether he declined the agency of Mr. Norris because he wanted to avoid paying him the proper compensation for his agency, or because Mr. Norris was of such a character that he did not want to be concerned in any transaction with him.

A. My first attention was called to it by Mr. Foster, and, as I stated yesterday, he wanted to introduce his friend. I had this general conversation with Mr. Norris, who was brought in by Mr. Foster. Mr. Foster told me he had arranged with Mr. Norris that if, by his influence, the contract was secured, he was to have 25 cents per musket. I told him we could have nothing to do with that. If we dealt with anybody, it must be with the original parties, and with no middle man. He advised my going to see Mr. Newman upon the subject, and I went.

Q. Now I understand you. Did I understand you correctly yesterday, that you declined having anything to do with Mr. Norris, from what you knew of his antecedents?

A. Mr. Foster said he knew but little of him. I said I knew him very well, and would have nothing to do with him.

Q. After saying you would have nothing to do with Mr. Norris, or any transaction in which he was concerned, how long was it before you employed him, as you told us yesterday, to obtain this important contract in Washington?

A. I am not aware that I ever employed him.

Mr. Bradley, (repeats.) Deny that you ever employed him as your agent to obtain a contract in Washington.

Mr. Bradley, (reads from Mr. Anthony's letter.) "I have information from another source that your endeavor to secure a gun contract for our co. will be very likely to be successful."

Witness. I was at that time informed where he was and what he was about.

Mr. Bradley, (continues to read from the letter.) "What I desire to do is, to get all the information possible in the matter, and go
289 so far with the contract that we can secure one if we wish. I can report to our people," &c.

Q. That letter was addressed by you to Mr. Norris.

A. As evidence that I did not give him any authority, I will state that he asked for letters introductory to our senators, which I did not give him; suggested a power of attorney, which I did not give him. He asked for letters from Mr. Bowen and Mr. Pierce. I gave him neither.

Q. Did you or not state that you requested Mr. Norris to see if he could obtain such a contract?

A. I said, "do what you can for us, and we will pay you if you do us any good."

Q. Why did you thus send him to Washington?

A. I am not aware of sending him to Washington.

Q. As to one of these interviews you had with Mr. Norris when he returned from Washington, you say that he stated the transaction and the contract as he understood it, and your answer was, "it may seem peculiar, but I don't remember it." I now ask you, do you recollect on the next interview, when the directors were present, Mr. Norris repeated his statement of what you had said, and then added a remark something like this, raising his hand, "as true as there is a God in Heaven, and I hope to be saved, you used those words." Did he use those words?

A. I believe he did. He made use of similar expressions several times.

Q. If you recollect that he made that statement, why didn't you refer to it yesterday?

A. That conversation was not with me personally; it was in a conversation with the directors.

Q. Did not you give an account of an interview between him, the directors, and yourself yesterday?

A. I gave a general account of the interview between him and the directors. I said he told his story. I did not pretend to repeat his story.

Q. Do you recollect, or not, that you answered that in this way: "I will not pretend to deny that I said it. I don't deny that I did?"

A. I think I said a number of times, "I won't deny that I said it,"
but I did not remember any such remark. I would like to
290 state the reason why I said it. I admit having said it now.
When Mr. Norris met me with that assertion, that I agreed to pay him all over $15, if $5 a musket, I had no recollection of it whatever. He met me so fairly and squarely with that assertion I was fairly staggered in my belief, fearing that in some unguarded expression I might have said it. I have Mr. Norris's testimony since this trial was going on. I am positive and certain that I made no such statement. I did not think I made it then.

Q. Had you anything upon those original memoranda that you say you destroyed, upon that subject?

A. I am not aware that I had. This memoranda itself was made up soon after these transactions, and when they were fresh in my mind.

Q. Made in September, and they occurred in July?

A. They had been the subject of continual conversation during that whole time.

Q. Do you recollect that Mr. Norris requested you to give him a letter at or about that time in July and August, stating what he had done in this matter in regard to this contract? Do you recollect saying to him that you had prepared such a letter, and that he would be pleased with it? But you calculated that you had better not give it him until this matter of compensation was settled. Do you recollect that he did ask you to prepare one?

A. I am not aware that I did, that I told him any such thing.

Q. Did you agree or disagree to his request when it was made, and why, if you agreed, didn't you do it?

A. Because I thought it was not best.

Q. Why not best to tell him the truth?

A. Because I didn't want him to have it. I at the same time declined to give him a copy of a letter of his own. I determined to have no further communications upon the subject.

Q. You have made some estimate of the cost of making these muskets to your company. If I understand you rightly, you say they cost $15, with $3 to be added to that for certain expenses you enumerate. Do you mean to be understood by the jury that the
291 expenses of making the musket will be as much when you have got fully started and in full operation?

A. No sir. Those expenses apply to the first contract.

Mr. Thurston. There is no such contract for 50,000 muskets. There is an attempt to present this to the jury as a 50,000 contract. There is no such contract, and none such declared, or any claims for compensation on this subject.

Mr. Bradley. Your honor will recollect the language of this gentleman himself is, "this order for 25,000 is attached to the original contract, making it part of the same," and the government expression is, "that the contract be increased to 50,000. We offer you 25,000 in addition to the other."

Mr. Thurston. We are prepared to discuss the legal relations of these parties and the U. S. government.

Q. The statement you have made gives the cost of making the first 11,000 when the establishment is getting under way. You say it will be much larger than any subsequent number, 25, 50, or a hundred thousand, which you will have to make when the establishment is under way. How much less than $18 would you make the rest, when you get fully under way.

A. My calculation was based upon a production of about 100 muskets per day; and a full year's business at that rate would reduce the cost per musket about one-half.

Q. That is, would reduce them to what sum?

A. About one dollar and a half. Reduce the three dollars to about one dollar and a half, so that the cost would be sixteen dollars and a half.

Q. How much would it reduce the $15?

A. I am not able to say. I doubt if it would any.

Q. Is there any reason, when you have once got under way, well equipped, well furnished, that you should not make muskets as cheap as they do at Springfield?

A. We are told by the authorities and by Gen. Ripley that it is not possible for private contractors to make them as cheap.

Q. Between private contractors, could you not make them as cheap as others?

A. I presume we can, equally good work.

292 Do you not know of government contracts being taken by contractors for $16?

A. No, sir.

Q. Do you not know that this is the conclusion of the committee who have made the examination, that $16 will make a liberal profit to the contractor? What price did you fix when you were negotiating with Newman & Co.?

A. Mr. Foster fixed for us about $13. I never made any price.

Q. Was it not $11 75, the asking price.

A. My impression was it was $13, but I am not sure.

Q. Mr. Foster and his father are practical men at gun-making, are they not?

A. I should like to show the difference between a Birmingham and a Springfield musket if I could have the original one. It is a vastly different thing.

Q. You know of no reason why you should not do it as cheap as other parties, but don't you think you could do it as cheap as the government? I should somewhat disagree with you. Your opinion is that private contractors would do it as cheap as the government?

A. I should think we might after we get the facilities the government have.

Q. Who was in any way authorized to procure or endeavor to procure this contract for the company? What other agent did you have?

A. I had none.

Q. Who, beside Mr. Norris, did you recognize as acting for you there?

A. No one.

Q. Who gave the name of the company to be filled in the written contract?

A. I have believed it to be Mr. Simmons. I understood it that Mr. Norris desired a contract in his own name, which was declined.

Q. Yes, that is hearsay. Who brought the contract to Providence?

A. Mr. Norris.

Q. He delivered it to you, did he not?

A. Yes he did, after he had kept it a day or two.

Q. Didn't he deliver it to you on the afternoon after he arrived?

A. He allowed me to read it, and then put it in his pocket.

Q. Didn't you repeatedly say, "You ought to be well paid; you ought to be fully satisfied;" and how was he to be well paid

293 if he had not rendered any service?

A. If he had rendered any service, whether it was requested or not, he should be paid.

Q. You say you understood from Mr. Simmons that he suggested

that his name should be put in—Simmons or Anthony, I don't know which?

A. I think Gov. Anthony told me that Mr. Norris desired to get his contract in his own name, but that it was refused.

Q. At the time this contract was obtained, had the tool company much work in their regular line of business?

A. No, sir.

Q. How many men had they in their employ to whom they could give full work?

A. From 75 to 100; I don't remember the exact number.

Q. What does the concern, when in full operation, employ at its two establishments?

A. One establishment was not running at all; there was no machinery in it. We had moved from the old establishment to the new. It was the old that was vacant; that was partly rented.

Q. I ask, as regards to the extension of time, what extension has been given you that you know of?

A. None that I know of. I have applied for an extension, and it has been refused.

Q. Has not the time of furnishing those muskets been extended to June?

A. Not that I am aware of. I have had no such notice.

Q. What communication did you receive from Mr. Simmons, beside the letter you produced yesterday, prior to these interviews between Mr. Norris and the board of directors?

A. None.

Q. How soon did you get any communication from him through Mr. Pearce, or otherwise?

A. Mr. Pearce was the first who told me of his interviews with Mr. Simmons.

Q. When did Mr. Pearce return from Washington?

294 A. I do not know.

Q. About what time?

A. He remained there a number of days. I don't know long. I saw him in Washington on Sunday—the Bull Run battle day.

Q. Did you see Mr. Simmons when you was there then?

A. Yes, sir.

Q. You had conversation with him about his compensation on Monday. Did Mr. Simmons say anything about Mr. Norris's claim?

A. Yes, sir. I told him, I believe, Mr. made a large claim.

Q. Those were your first conversations with Mr. Simmons about Mr. Norris's influence in obtaining the contract. It was not the last day by any means.

A. No, sir; I have asked his advice in regard to it, and inquired what a proper claim would be under the circumstances?

Q. You and Mr. Simmons have advised what you should pay Mr. Norris?

A. I have asked what would be a proper claim for Mr. Norris to make under the circumstances.

Mr. Bradley repeats. You have conferred with Mr. Simmons about what you have already stated.

Mr. Payne interrupts.

Mr. Bradley. Leave the testimony as you gave it to the jury.

Mr. Payne. Yes, and in a good deal more honest shape than after it leaves you.

Re-direct.

Q. What was the result of the information you got from Mr. Simmons as to the service that Mr. Norris had rendered?

Mr. Bradley. You have got Mr. Simmons's deposition on that subject.

Q. Has there been any question at all between the counsel and yourself as to whether the whole story of Mr. Simmons's connexion with this matter, or only in regard to where it should be properly introduced?

A. Not at all.

295 *Testimony of Mr. Miles Moulton.—Direct examination by Mr. Thurston.*

Q. What is your present occupation and employment?

A. I am at present employed at the Burnside works in Prov.

Q. In what capacity?

A. As inspector of their carbines.

Q. Are you the U. S. inspector, appointed by the government?

A. I am, sir.

Q. In whose employ?

A. Employed by the government.

Q. How long have you been familiar with the business of inspecting arms?

A. Since the fall of July, 1856.

Q. In what places?

A. At Colt's, in Hartford; at Sharp's, in Hartford; at Savage's, in Middletown; at all those places in the government employ.

Q. What system do you adopt in the inspection of the various arms which, in your capacity as inspector, you are called upon to examine?

A. For those instructions I shall refer you to the Ordnance manual.

Q. Is this book I hold a copy of the Ordnance manual of 1861, under which you act, and from which you derive your instructions?

A. It is.

Q. Is there found on page 183, and the following pages, the minute directions for the course you are to pursue?

A. Yes, sir.

Q. I will not interrupt the examination by putting it in until the proper time. You will find there the rules under which he acts.

Q. Do you inspect Springfield muskets?

A. I never have.

Mr. Thurston. We offer him as an expert upon that description of arms which the government send him to inspect.

296 A. My knowledge of the Springfield muskets is only derived from the time within which I have been employed in their manufacture.

Q. How long was that?

A. From 8 to 9 years.

Q. Where were you employed?

A. At the Springfield armory.

Court. What did you do at the Springfield armory?

A. I was employed on the different branches; not confined to any particular branch of the musket.

Q. Enumerate some of them.

A. Barrels, mainsprings, and various parts of the mounting and other portions of the lock; also, at different times during my term there, a portion of my time was spent in the manufacture of building tools to do the work with.

Q. Tools incident to the manufacture?

A. Yes, sir.

Q. From your acquaintance with the Springfield musket and your experience of its manufacture during the period of 9 years, and your subsequent experience as inspector of different species of arms made by the government, would you or not be capable of inspecting, according to the rules of the Ordnance office, the Springfield musket?

A. I think I should, sir.

Q. How, in the general principle of inspecting the arm, does the system of inspection for the Colt rifle, Savage pistol, and Sharpe's rifle differ from that of the Springfield musket?

A. It all comes under the same head.

Mr. Thurston. It is all the same thing.

Q. In the Ordnance manual, to which you refer, and the instructions which are given to you, is there any distinction made in the principle to be applied to one of these classes of arms over another?

A. Not to my knowledge, sir.

Q. In inspecting work for the government, under your direc-

297 tions, state generally the method of procedure, whether it is inspected on a few specimens, as a whole, or whether in detail.

A. In detail.

Q. State how you proceed generally, so that the jury may understand the matter; I will hand you a single piece, the sear and its gauges.

Q. (While the sear was being brought.) Have you ever heard of an instance in your practice as inspector, or have you ever yourself done the same thing, where, in inspecting any portion of a musket, it was done by examining in detail only ten per cent. of those parts which were presented?

A. Never in one instance, neither could it be allowed; if detected, an immediate discharge would follow.

Q. Now illustrate to the jury, from one of the gauges that I now hand

you, how you would inspect the part of the musket to which these gauges belong. I hand you the lock-plate and some of its gauges.

A. The first operation, gentlemen, would be to gauge the plate in "that" manner—see that in every respect it filled the receiver; the guage in all its various points, at the ends, at the sides, and in general throughout the whole edge, must fit on the surface. The object is to see that the plate fills the gauge perfectly around the edge, then try the sockets to it in all its different places; "that" is for the thickness of the plate at the centre; "this" is for the ends; "this" is for what is called the bolster for the mainspring, which also has to be made to the gauge; "that" is to show the chamber on the edge of the plate where you see the edge is chamfered off; there is also a place on the corner of the gauge; that also is required to be a perfect fit, so that there will be no unevenness; "that" little notch is to show that "that" place on the bolster of the spring is correct and is also of the right size; "that" is to show, after the plate is completed, the standard for the side; if there is any variation, "this" shows it immediately; taking a straight edge or a small square and following it up along the surface, you will ascertain whether it is under the size or over it.

298 Q. In addition to this examination, is it or not subjected to any test to see if there is any defect in the material as well as the workmanship?

A. Yes, sir, at the same time.

Q. For what classes of defects would it be rejected on the score of defective material?

A. On this band there are flaws and seams. That hammer was condemned for both material and workmanship; it was not filed in the proper manner; it is very uneven. There are flaws and small cracks on the root of the hammer. We have to be very particular on that point, as there is where the strain comes; if there is anything in the shape of a flaw we have to lay it out. The man that filed that didn't bring it to the true circle, and therefore it will not present a good appearance when screwed on top of the tumbler.

Q. I will ask you about the various parts of this lock, which is made of rejected pieces.

A. The defect in this side-screw is that the head is not full to the surface; "there" is a flaw, and "there" is another. When the screw is placed in its proper place in the gun, the little check is not concealed, which impairs the efficiency of the screw. In this other side-screw the objection is the same as in the other, only in a more prominent place. In relation to the size of this cone I can tell nothing, for I have no gauge. The screw is rejectible because it is not perfect work; the strength and durability of it would not be materially injured, but it is not what they bargained for, and they will not pay for it. This bayonet is condemned for material; the blade is condemned for workmanship. With the naked eye I cannot tell whether it is a defect in the polishing or something that was left in the stock; many times we have to look at it by a magnifying glass; the material would reject the socket, and hence the whole bayonet, though there

is a defect also in the blade. We have to gauge the spring in the same manner, and we have a gauge, by applying which we determine the number of pounds weight of the spring; this spring is condemned for short weight. Various parts of the lock are condemned for workmanship, and have been badly mangled when assembled. The
299 tumbler has to fit the gauge so that it fills it and works in it free and easy. That pin is too small to give the size for the hole for what is known as the stirrup ; any variation in the sear or in any of these various parts would make a variation in the lock ; "that" part of the gauge is to gauge the size of this part, and the fit must be a perfect one, so that there is no play to it, but that it shall remain in the lock stationary; "this" is to gauge the screw where the hammer goes on.

Q. I shall ask you, as to the test of the temper of the barrel, what extent of variation is allowed there by the Ordnance manual?

A. I believe 1-400 or 25-10,000 of an inch.

Q. Is not that variation so small that it is capable of being exhibited in the contraction and expansion of the several parts. Supposing this rod to be an exact gauge of the bore of the barrel, and the parts were in a temperature of 50 degrees, capable of fitting each other exactly, if the rod be placed in cold water and contracted down to 32 degrees, and the rod be kept in the hand, making it the ordinary temperature of the body, would not the variation become sensible?

A. I think it would.

Q. About how many times are the gauges applied at the final inspection of the musket?

A. To the best of my knowledge and belief, in the neighborhood of 50 times ; it might overrun, and might not.

Q. In about how many places are the gauges applied to the tumbler?

A. In about the same number of places as there are parts to the gauge ; it is seldom applied twice in the same place.

Q. Count how many times the gauge is applied in testing "that" single cone.

A. From 13 to 14 times.

Q. And so on through all the different parts of the musket?

A. Yes, sir.

Q. State in regard to the ease or difficulty with which the
300 various parts of the musket can be contracted for by individuals situated in parts of the country remote from each other, and then assembled together in one place to make a musket ; what are the difficulties in the way of so doing over and above the difficulties of making a musket under one system of superintendence?

A. The trouble in that respect would be in getting the work done in a uniform manner ; there would constantly be a liability to variation in the different parts, so that when assembled they would not unite in the proper manner, and be capable of being received.

Q. State whether or not, in an establishment for the manufacture of arms, practical experience has not demonstrated the fact that the gauges in use are constantly varying from the standard gauge?

A. Occurrences of that kind take place daily.

Q. In the Springfield armory, and another well-regulated establishment, is or is not the duty assigned to any particular person to ascertain that there is a proper correspondence between the different gauges used in the manufacture of the complete arm, and to correct any errors that may arise?

A. All the different parts are carried to one room, and there inspected by different inspectors. If there is any variation, it is there determined by them, and it is their duty to make it known to the foreman, and he has to follow it up and see that it is soon set right.

Q. From your experience of the extent to which variation creeps in the ordinary processes of making a gun, state whether it is practicable for a musket to be made in different portions of the country by different contractors, each using his own set of gauges, and then assembled so as to be capable of standing the government test?

A. It is not, sir.

Q. Do you know anything concerning the cost of the model musket and the standard set of gauges?

A. I do not; I had nothing to do with that part. I was
301 there at the time, and knew the cost, but have forgotten it.

Q. It was a very large sum, I suppose.

A. Yes, sir.

Q. Is that model musket and its gauges allowed to go out of the armory?

A. It is not.

Q. Do you know how parties engaged in contract-work proceed to make their guages?

A. I do not know that I do. I suppose their intention is to adopt the same principal which is enforced at the armory. I don't know whether they do or not.

Cross-examination of Mr. Miles Moulton.

Q. (By Mr. Blake.) You say that, according to your experience and judgment, it is not practicable to make the different parts of the musket in different parts of the country, so that they may be assembled and stand the government inspection. Have you ever known the attempt made without success?

A. I never have known of the thing being done successfully.

Q. Have you ever known of its being attempted unsuccessfully?

A. I have never known of its being attempted in full.

Q. How has it been before and since guns were made by machinery in regard to this practice in this and other countries?

A. I am simply speaking of the manufacture of these arms for the government. I do not know how it has been with private individuals. Arms that are accepted by private individuals would not be accepted by the government.

Q. The government musket in England is made principally in the vicinity of Birmingham, is it not?

A. I have no knowledge on the subject.

Q. Has it been according to the course of mechanical employment

in England for one person to make the government gun; or are different parts made in different establishments, and then sold to the government and put together?

302 A. I never was in England, and have no knowledge about the matter.

Q. Have you not general knowledge of the gun-making business in other countries?

A. I have no knowledge of what is done over in England.

Q. Do persons going to learn the trade of gun-making confine themselves to making one part of the gun, or do they make the whole?

A. That depends altogether on how long the man is employed in the business, and how successful he is in his making of guns. There are great differences: some men might work all their lifetime at one particular thing and never get to do a decent job; others commence at one point and are capable of making almost the entire musket in a little time.

Q. You do know that where they make the most guns, say 100,000 a month, they are made a particular part by a particular man?

A. I have heard statements made in relation to men going there, but I have no personal knowledge, and therefore don't pretend to say anything about it.

Q. I understand you have not inspected the Springfield muskets, or seen the inspection going on?

A. I have seen any quantity while the process was going on in its different stages.

Q. Is there any difference between the present manual and the former one?

A. I have not examined them closely. I should judge there might be some variation in different respects, but I could not state what particulars.

Q. You have stated something about a difference of temperature making a difference in the bore of the barrel. Do you know about that from your own knowledge.

A. I do, sir.

Q. Have not experiments been tried with different results?

A. They were tried by different men.

Q. Would the degree of variation caused by heating the

303 barrel be greater than is allowed by the manual?

A. I should say it would. Of course it will depend upon the degree of heat to which you subject it; you might heat it red-hot and the variation would be very great.

Q. Suppose it were not heated any hotter than you could bear it?

A. I do not think that if it were not made too hot for a man to hold in his hand it would vary more than is allowed by the manual.

Q. Is any variation allowed in the weight of the mainspring?

A. 5 pounds. The strength of the mainspring is from 70 to 75 pounds.

Re-direct.

Q. You have seen the Birmingham musket, or one made in Enfield. How does that compare with the workmanship, material, and capacity to interchange nicely with the musket made at the Springfield armory?

A. I have never seen one that would compare with it in any of these respects.

(Testimony of Barton H. Jenckes follows.)

304 *Examination of Barton H. Jenckes.*

Q. Where do you reside?

A. In Philadelphia.

Q. What is your present occupation?

A. I am engaged at present in the manufacture of Springfield muskets.

Q. Of the model of 1855, which is here exhibited?

A. Yes, sir; the model of 1855.

Q. Have you a contract from the government, and when was it dated?

A. We have a contract from the government for 50,000 muskets. I cannot tell the date exactly, it is in the early part of July, 1861; about the 3d.

Q. Are you aware that the Sec'y War, on recommendation of Gen. Ripley, proposed to issue an aggregate of 100,000 muskets in contracts of 25,000 each?

A. Yes, sir; we were one of the parties to whom a communication was addressed by the Ordnance department, as to whether we would be one of the parties who would accept one of those contracts for 25,000.

Q. Is a portion of your 50,000 which you are now under contract to make for the government, *i. e.*, 25,000 of it, part and parcel of the 100,000 intended to be issued?

A. The original contract was but for 25,000.

Q. Are you, or not, making the same pattern of arm that the Prov. Tool Co. contracted to make, and is the contract of the same description?

A. Yes, sir. I say so from the fact of the contracts themselves being similar; they are identical.

Q. State whether or not you accepted any contract for 25,000 arms for the government?

A. We did not accept of it, alleging that the necessary expenditures were too great. We were applied to by the Ordnance department. I had a personal conversation with Gen. Ripley.

Q. State upon what knowledge or information you declined to accept it.

305 A. The source of information was the Springfield armory. On visiting the armory and seeing the amount of machinery necessary to manufacture the quantity of arms in the time specified, we concluded that it would not pay at all to go into the matter.

Q. What was your previous employment and experience in the

manufacture of machinery before the time you were applied to by the Ordnance department to take one of these contracts?

A. The manufacture of cotton and woollen machinery in all its branches, contracting for the home mills frequently.

Q. To what extent engaged, measured by the number of hands you were in the habit of employing?

A. The largest number we employed was 500. Our usual number was about 400 for years before we were applied to by the Ordnance department.

Q. You finally did attempt to go into the manufacture of the musket, and are now prosecuting it. When did you first start to make the arrangements for machinery, &c., preparatory to the enterprise?

A. During the months of July and August, 1861.

Q. Now state the several difficulties, if any, which you encountered in making the requisite preparation to enable you to go into this business, mentioning any difficulty you experienced in getting the necessary machinery in the time.

A. There were comparatively few shops that made gun machinery, and they were full of work. There were other contractors who wanted machinery at the same time, and was in as great hurry as we were. The difficulty of getting hands, *i. e.*, sufficiently skilled workmen to commence the business and make the tools necessary. In no single instance were the specified contracts for machinery complied with as to time. In some instances months expired before we received the machinery contracted for.

Q. Were you pushing with vigor the delivery to you of machines for which you had contracted?

A. Yes, sir; constantly visiting the works, and in many instances inducing parties by the payment of a premium to get the ma-
306 chinery out in time. Several instances I would rather say than many.

Q. What advance in percentage were you compelled to pay on account of this unprecedented demand for labor, scarcity of workmen, &c.?

A. I am not able definitely to answer that question, from the fact that various contractors charged different prices according to the manner in which tools are made. We paid 25 pr. cent. more on account of the difficulty of getting hands and the great demand for machinery.

Q. Did you possess and enjoy in the execution of this contract any peculiar advantages not enjoyed in common with you by other parties to other contracts? State in relation to the labor that you obtained at Harper's Ferry.

A. Yes, sir. We learned that there were a large number of gunmakers at Harper's Ferry. We succeeded in getting an order from the War Department for Gen. Banks to make a demonstration against Harper's Ferry, and in that way we succeeded in getting the workmen.

Q. You had the army of the U. S. to your back to enable you to get laborers?

A. It was a demonstration against Harper's Ferry. Gen. Banks

planted cannon. The rebels went to the mountains in the rear, and we went to the armory and got these men out. 25 went to Washington.

Q. They were skilled in what department? If in any speciality, name it.

A. In the general operations of making a gun. Some were barrel-borers, some lock-filers, some tumbler-filers, and filers of various portions.

Q. State whether or not these men were used as instructors to impart information to other men.

A. They were entirely used in that department.

Q. State what, if any, advantage you received from the War Department assisting you in the manufacture of your gauges from the standard gauges employed by the government.

A. The government gave us the facility of placing six men at the armory in Springfield in January last. They have been there ever since, and are still there working on gauges.

Q. Have you succeeded in delivering any muskets to the government?

A. We have not. We have a number just ready.

307 Q. What number have you now ready for inspection?

A. About 800.

Q. State, if you can, any difficulty in the operations of the machinery of the government, as affecting these contracts upon the rapidity of the inspection of arms, after you are ready to deliver, whereby you are delayed in getting your money for them, and sustain a loss of interest.

A. I do not know whether the difficulties as to time in the inspection are anything more than those consequent upon the wants of the government. There is great difficulty in getting inspectors, the government requiring the use of all their own men and many others.

Q. Have any of your guns passed inspection yet?

A. They have not as a unit.

Q. In order to facilitate that inspection as fast as possible, state what extraordinary expense, if any, you have been obliged to go to in employing inspectors on your own account.

A. I have had 16 inspectors employed on our own account constantly in inspecting the gun in detail.

Q. At your own charge I suppose?

A. Yes, at our own charge.

Q. You have spoken of the difficulties in your way in the matter of skilled labor to perform the manual operations. Did you find difficulty in procuring skilled labor for the superintendence of the several operations?

A. We have found great difficulty in getting skilled leaders, and are using the Harper's Ferry men as leaders in many of the branches, the specialities with which they are acquainted particularly.

Q. After the machines were furnished you, with which these operations were to be conducted, was there or not any other expense

A. Yes, sir.

Q. State what efforts you made before that committee to prevent the reduction of this contract, as well as incidentally of the other contracts, which together would make up the 100,000.

(Mr. Blake objected.)

Mr. Thurston. The point is to show, in answer to the suggestion from the other side relative to the position which I presume they will take, that the additional contract was issued to the Prov. Tool Co. in Nov., as an incident of their having already a former contract,
311 and therefore that the service of this plaintiff is connected incidentally with the second contract. I propose to show, and put it upon evidence, that nothing that could flow from Mr. Norris had anything to do with the second contract being issued. I expect to prove a line of facts that will negative the idea that it was the policy of the government to give additional contracts where one had been already granted. I shall show that at the time the committee were in session for the purpose of reducing his contract which the gentleman has referred to at this time, Mr. Jenckes, apprehending that his contract would be impaired, appears before the committee and demonstates by means of 720 pieces of a musket, through all the varied stages of all the various parts, demonstrates to the satisfaction of the committee, that it was proper that no party who had gone into that original investment necessary to perform the 25,000 contract should be refused the additional contract to enable them to get out of the work. We shall show that our second contract was granted to us because Mr. Jenckes had a contract in addition to the one originally offered to them, in order to negative in every possible way the remotest presumption that can arise that the second contract proceeded from the first.

Mr. Bradley. Of course, we object to partial testimony of what is before the committee. That official report has been offered on both sides. I have referred to sundry parts of it. It is one thing to take their official judgment, and another to take the partial statement of another party.

Mr. Thurston. The point is, not what conclusions the committee arrived at, as to the general subject of manufacturing arms; but if there is any presumption desired in favor of this plaintiff, from the subsequent increase of the contract, we wish to negative that.

Court. The declaration don't allow of any such thing.

Mr. Blake. We shall upon the evidence—that is, in that they took the first contract with all the incidents thereof—that there is evidence to sustain it. I do not wish the counsel to say that we shall not argue that they went into the first contract with the chance of getting an extension. That is one of the advantages of the
312 first contract, as we shall put it.

Mr. Bradley reads, "additional contracts may be given to those who prove themselves worthy to receive them." Any statement before this committee, pro or con, has no legal connexion with this case.

Mr. Blake. Let us put in what they said, and we will go on. (Agreed to.)

Q. What took place before the commission on your part with reference to satisfying the commission in regard to the extent of expenditure?

A. We did not go before this committee to have the contract extended in regard to the number of guns; it was only the time. We had assurance, when receiving the contract for 25,000, that if we were able to make the guns, we should have an additional 25,000. A month or two after that, the work was extended to 50,000 guns. (Repeats.) We declined to accept the manufacture of 25,000, on the ground that the expenditure would be too great to reimburse us. It would be necessary to have at least 50,000 guns. Some parties advised us we could not do it under a 100,000. We decided, finally, that we would go into the contract at 50,000. The contract had been written for 25,000. We had it in our possession. Two or three months after that, 25,000 additional were endorsed upon that contract, which if they had not done, we would not have gone into the manufacture. In relation to the extension, we knew by the public papers that this committee had been appointed—Judge Holt, Mr. Owen and Major Agner. I found that the committee were under a misapprehension as to the progress we had made in the work of manufacturing these guns, and I excused myself from making a full and formal report at that time. I immediately returned home, and collected all the parts of the gun in every stage of progression. I took them to Washington, and had them arranged according to order, and put up in the committee-room in their absence. And the next morning I made my appearance with this exhibit on the wall, and a descriptive list of them, embracing 719 or 20 different pieces: 15 or 20 different pieces of the lock-plate; 20 or 30 different pieces of the hammer in different stages; 25 or 30 hammers; 719 pieces in the various operations. They were so well pleased with this exhibit, and imagined
313 that they were instantly to receive the arms, (we had barrels there, as well as other parts of the guns,) that the contract was extended as to the time of completion; making our first delivery in July, instead of February. I think it was 6 months it was extended.

Q. This occurred before the commission in what month?

A. It was soon after the commission had been appointed. I cannot state the month. It was last spring, and after the time that we ought to have made the deliveries of the guns. Our time was extended at once, after that exhibition.

Q. With respect to the iron proper to make barrels under this contract, is or is not the supply limited, and from what source is it supplied?

A. The chief source of supply is from England.

Q. Is or is not iron successfully used to make barrels in this country?

A. There has been a great deal of difficulty attending the manufacture of barrel iron in this country.

Cross-examination of Mr. Barton H. Jenckes.

Q. You are of the firm of Alfred Jenckes & Co., of Phil.?

A. Yes, sir.

Q. I find on page 38 a letter from this firm, to which I will call your attention. (Reads the entire letter.)

A. Upon the breaking out of this war, we offered our works to the government, through the Secretary of War, to do anything we could do to assist in putting down this rebellion. Some weeks or a month after that we received instruction, with a request to know whether we could make cones for the English guns they were importing. We had machinery capable of being turned to that work, and we went to work to make cones. They desired us to make picket pins for horsemen's use for fastening horses. That was our introduction to the Ordnance and War departments. Being at Washington with reference to receiving money for the picket pins, the Secretary of Treasury wanted to know why we could not make guns. I wrote out an informal proposition, proposing to make a hand-made gun for $22\frac{1}{2}$.

314 The Secretary Treasury, Mr. Chase, is a relation to me by marriage—an uncle. I am well acquainted with the Sec'y of War; he is from our State.

Q. Your establishment is a large one?

A. $370,000 it was worth before we put in the $200,000.

Q. What kind of machinery were you making before the war broke out?

A. Cotton and woollen machinery. That business was depressed on the breaking out of the war, and we offered the establishment to the government.

Q. These cones were for the Enfield gun, of different shape from the Springfield gun. This proposition was from the Sec'y, your uncle, to make the guns?

A. That was as early as May 26th. They were then purchasing guns from abroad, and the matter was in conversation brought up. We proposed to make a hand-made gun.

Q. You had no acquaintance with the making of guns prior to this time?

A. We were somewhat familiar with guns, having made machinery for the arsenal close to us—rifling machines, machines for tapping out the interchangeable breach gun. Our establishment is adjacent to the government arsenal at Pittsburg.

Q. What is the cost of making the different parts of the lock complete—the Springfield musket?

A. As a matter of cost, sir, it is very difficult to fix, from the fact that the inspection should be fixed before the cost is.

Q. You can take it either way; the cost of making the lock independent of inspection, to show what the cost of the different processes, is—the cost of material and workmanship in putting up the lock?

A. I would scarcely trust my memory to make a statement of that kind without having our books here.

Q. Can you give us the cost of the bayonet—the cost of the material and of the wages alone?

A. The conclusion of the whole matter is, the cost is $1 04 cents without including wear and tear, without oil or loss. The wear and tear I will put down at 10 per cent.; the loss, oil, and interest, at 16 cents per bayonet, amounting to $1 30 cents. This I obtained from my own personal knowledge and inquiry. With regard to the
315 other parts, I could not state so readily.

Q. Now, you state that you suppose it would cost you $16 to make the first gun you are going to deliver. After you get your establishment up, and the machinery and men in good operation, can't you make your guns for less?

A. We expect to make 50,000 guns, and we think we shall just about get our capital back, and then we shall have the machinery on hand. If the government should give us another contract we might make something.

Q. You expect to earn the machinery by the contract, not the establishment?

A. We will earn the expenditure, which is $200,000?

Q. You charge the cost of interest on the whole establishment $570,000, on the machine shop $270,000, and some $200,000 and odd thousand for what you have expended to make an armory out of it?

A. We expect profit enough to make the armory investment clear. We expect to make the $200,000.

Q. By Mr. Hazard. What is the rejected musket worth in the market to-day?

A. If you will guarantee their delivery into another country you can get $17 for them. We have to stand the loss of getting the guns into the country of Mexico.

Q. What per cent. loss if you don't sell them?

A. I presume there will be a good many rejected muskets in the market.

Q. You have spoken of the difficulty of rolling barrels.

A. Yes; of the difficulty of procuring iron and skilled labor.

Q. Is there not another method of making them, by tilt-hammers, as well as by rolling?

A. Mr. Washburn formerly made them by tilt-hammers.

Q. Can a man detect the difference between one rolled and one made by a trip-hammer?

(No answer that was heard.)

Q. Is it not the business of the government usually to provide for the inspection?

316 A. It is.

Q. You include the cost of inspectors? You expect the government to reimburse you?

A. That is a matter of great uncertainty. We made ammunition for Burnside when the arsenal burnt down, for which they never paid us a cent.

Q. You include the expense of that which is usually borne by the government in the cost of the musket?

A. We have embraced it.

Q. What is the cost of inspection?

A. The wages of the inspectors will amount to $60 per day on 200 guns.

Q. About 30 cents per gun?

A. It is the same, whether we are making 200 or less than 200. Our inspection now amounts to that when we have made but 800 guns. We are turning out 125 per day. It will amount to 30 cents, which is other than the proving. It takes 280 grains for the first charge, 250 for the second charge, and the ball, that weighs 500 grains of lead, which is worth something after it is fired, and three men.

Q. How long have you had a corps of inspectors? You have got to charge all that upon the gun, upon the supposition that you are getting out 200 a day. Now you are paying 30 cents a day, and not getting out the guns; so that the cost of inspection is a great deal more.

A. Yes; really turning out all the parts but the barrel for the last six months.

Q. Then you charge 60 cents a day to 120 guns.

A. Yes; about 50 cents apart from the inspecting of the barrel.

Re-direct.

Q. After this inspection has been gone through by you on private account, will not the government go through with still further inspection before receiving the arms?

A. We presume they will. That will be at their charge.

Q. You expect to make your machinery out of the 50,000 contract. Would not your profit be what you could sell the
317 second-hand machinery in the market for? If that depreciated 50 per cent., you would make only $100,000?

A. Yes, sir.

Q. These inspectors were government inspectors?

A. They were government inspectors from Harper's Ferry, but they are not private inspectors.

End of testimony of Barton H. Jenckes.

Mr. Thurston then read the depositions of this case of Hons. H. B. Anthony and Jas. F. Simmons, U. S. S., and Gen. James W. Ripley.

Mr. John B. Anthony recalled.

Q. Did you make a recent visit to the Springfield armory, and did you obtain the musket now presented to you?

A. Within a few days, while at Springfield, I collected the different parts of a musket and brought them home to Prov. There they were assembled, and this is the musket; each and every identical part, screws and all, of which is a rejected part, so stated to me by the inspectors at Springfield.

Q. Was or was not the several parts taken from the boxes rejected work?

A. They were; every part except the barrel, which Mr. Howe selected. I collected them myself from the boxes containing masses of rejected work.

Q. I will ask you if this statement extends even to the rivet?

A. Yes, sir; even to the minutest portions. I believe there is not a piece in the whole gun but what was a rejected part.

Q. Each of the parts bears the mark of rejection, does it not?

A. The lock-plate was rejected because one of the screw-holes was counter-sunk a little.

Q. Are places assigned for the rejected work?

A. There are boxes into which the work is thrown. In one case I selected the whole lock from one box, all the parts being deposited there. I tumbled them out on the floor. Mr. Howe picked
318 out the barrel, and I picked out the rest. The lock was put together in my presence. I was careful to follow him, so that it might not be out of sight.

Conclusion of the 6th day's proceedings.

SEVENTH DAY, *Thursday, July 18th.*

Mr. John B. Anthony recalled and cross-examined.

Q. I don't know whether or not you have stated whether or not the government furnished you with a sample Springfield musket.

A. They did so.

Q. Will you take your gauges and apply them to that?

A. I am not able to; I am not an expert.

Q. What is the rule upon the work? If it is imperfect, is that the loss of the man or the loss of the employer?

A. The work is done by the piece, and if a particular piece is not received by the inspector, the labor upon that piece is the loss of the man who does the work; upon some portions of it, not upon others.

Q. Is the method of welding the barrels, or that of rolling them, the cheaper?

A. I don't know anything except from general information. I suppose the rolling to be far the cheapest.

Q. The trip-hammer has been the more common method in this country.

A. It was in earlier years.

Q. In the case of some parts of the gun, if they are rejected by the inspector, state more particularly upon whom the loss falls.

A. In our establishment, on some parts of the gun, we pay for the labor exclusively by the day, other portions by the job, and the labor is lost by the man who does the job. If the loss is in the material, it is our loss all over the gun.

Q. I want to know to what parts it applies?

A. The barrel is done by the day, all the finishing of the barrel after the rolling. The rolling and all is done by the day.

Q. What is the fact with regard to the rest of it?

319 A. I think the larger part of the rest is done by the job.

Q. Mr. Jenckes told us that his time for the completion of the contract had been extended. How is it with the Colt contract?

A. They have made repeated applications for extension of time, and have been refused in every instance. I did not know that Mr. Jenckes's was extended until he said so on the stand.

Q. How was it with Lampson & Goodnow?

Q. State in regard to the time when you received information in regard to our knowledge of a certain matter.

A. I have telegraphed for the books.

Q. Are there other entries touching the subject than those you mentioned yesterday?

A. There are none but those two.

Q. You notice this letter which relates to some proposed interviews in the settlement of this controversy:

"PROV. TOOL CO.:

"DEAR SIR: I rec'd your note without date, and will reply that we don't perceive that any benefit will result to anybody from the meeting of the parties in counsel, as you propose, and must respectfully decline to agree to anything of the kind."

That was a proposition for an interview of the parties to talk over the whole matter. Does that recall to your mind the fact that you had undertaken to pay?

A. It may have recalled to my mind the fact that this money had been loaned to Mr. Simmons; I could not conceive that it had any connexion with this case whatever.

Q. Does or does not your memory, thus directed to these communications, enable you to recollect that it was at or about that time that you were apprized of the fact that we had some knowledge of the relation between this Co. and Mr. Simmons?

A. I do not think there was any talk with the counsel or members of the Co.

320 Q. Do you recollect Mr. Edward Pearce, one of the stockholders, telling you that Mr. Norris had told him that Mr. Simmons had received money from your Co.? Did Mr. Pearce communicate that to you?

A. I think not: I do not remember to have had any conversation with Mr. Pearce about it.

Q. Did you take any receipt from Mr. Simmons, and was it in full or on account?

A. I think it stands as a debt against him, which he in honor is bound to pay.

Re-direct.

Q. You are asked whether this was in full or on account of Mr. Simmons's services. Do you mean to recognize directly or indirectly that it was a payment to Mr. Simmons in acknowledgment of any obligation or on account of any obligation?

A. Not the least. I am not aware that it has ever been claimed by Mr. Simmons as in payment of any obligation.

Q. Have you ever ascertained from any source, and if so, from what source, that Mr. Norris, or any of the parties on the other side, knew anything concerning the facts of the transaction between Mr. Simmons and yourself?

A. I never did until they did.

Mr. Thurston. I have no idea that you did; you may have a suspicion.

Q. At the time of the proposed interview, to which your attention has been drawn by the letter of the 22d, in fact, was any communication made to you by the counsel on the other side or by Mr. Norris himself, or was the subject discussed as to any information they had, that they had upon the subject of the Simmons matter, or was adverted to at all?

A. I am not aware of its being.

Mr. Payne. You brought Mr. Blake's letter proposing an
321 interview between the parties and counsel to me, didn't you?

A. Yes, sir.

Q. You replied, upon my advice, in the letter which is there?

A. Yes, sir, in each instance. There were a number of communications.

Q. You were ready to receive propositions, but did not think an interview desirable?

A. Yes, sir.

Q. At any of those times did you communicate to me, or, to your knowledge, did I, as counsel, have any knowledge for a long time that there was any such interview between Simmons and yourself?

A. Not at all; I did not tell you.

Q. (By Mr. Thurston.) How lately, to the best of your present recollection, did you communicate to Edward Pierce, whose name has been mentioned in this connexion, or how lately, if you know, did he become possessed of knowledge of the fact that there had been any communication between Mr. Simmons and yourself touching this matter of inquiry?

A. I have no idea he knew of it until he came to Newport 10 days ago, or a fortnight, for the purpose of trying this case.

Q. In order that the jury may form some opinion as to how that was brought out in consultation with the counsel and the members of the company, you may state more particularly about this disclosure.

A. It was at the Fillmore House.

Q. Did Mr. Pearce express surprise at that time?

A. He did. He never had heard of it; at least, he knew nothing of it from me.

Q. How long before had you made known the fact to either of the counsel with whom, as agent of the company, you were consulting in this case?

A. It was within a short time; I can't tell exactly. It was quite recent.; at any rate, long since this controversy commenced.

Q. You have been asked if the Springfield armory furnished you

with a pattern musket, and you said that they did. What description of musket was it, with reference to its correspondence with the model musket, as you understand it?

A. I understood it to be one selected from their regular production, and not a model by any means.

322 Q. Whether a model or not, it was not your source of reliance as a means of obtaining your gauges?

A. Scarcely at all.

Q. How many times have you made application to the Ordnance department, or to any officer having authority therein and capable of granting the request made, to extend the time for the delivery of arms under your contract?

A. I have made it in person and I have made it by letter, well, certainly 3 times.

Q. In all these instances you met with a refusal?

A. Yes, sir.

Q. Have you not been informed upon something else in the Ordnance department?

A. At my first interview with the ordnance commission I was told that the whole contract was void in consequence of the first deliveries not being made in accordance with the terms of the contract. That was the understanding the commissioners had of the contract. I told them that was a new idea to me. I claimed it was void only pro tanto, for those parts not delivered at the specified time, but good for the balance of the contract.

Q. Where did you get that information from—Gen. Ripley?

A. No, from the commissioners—Judge Holt and others.

Q. Did they maintain that view of the subject in conversation with you?

A. After conversation with them stating our position in the matter, they said they would not hold us to that construction of the contract, but should hold us to our construction of it, which was that we were at liberty to deliver any muskets which might be ready at the time specified in the contract, and no more.

Q. Explain fully upon that whether you mean to convey any idea that if at the time when you begin to deliver, 3 months from this time, and when on the contract you will be bound to deliver 16,000, you should succeed in having ready 10,000 that should have been ready earlier according to the contract, would you or not have power to deliver the 10,000 on account of back deliveries not made?

A. I asked if we could not deliver the whole number if we could get them done in the aggregate time, *i. e.*, if we could drive

323 up faster and get the aggregate done. They said no, not at the price; not at the 20 dollars. It would depend altogether upon the condition of the government at the time the muskets were ready.

Q. You can deliver when you begin to deliver all that your contract from that period of time calls for, and no more?

A. That is it.

Second cross.

Mr. Blake. Has that commission separated?

A. I have understood since I have been here that they have made a final report.

Q. Will you produce the letter which you wrote making application for an extension?

Mr. Thurston. We were not expecting that it would be called for.

Mr. Hazard. Has Mr. Simmons visited your establishment within the last 6 months; and if so, when?

A. Not to my knowledge.

Q. Not since the 24th of July, when the contract was accepted?

A. Yes, sir; since July he has, before he went to Washington for the winter term.

Q. Did he go through?

A. Yes, sir; partially.

Q. Did he ever visit it before?

A. I think he went partially through it twice, perhaps once in the summer and again in the early autumn.

Q. Had he ever been there before this contract was hinted at?

A. Not to my knowledge.

Q. You have been asked whether it was not recently that you communicated even to your counsel the fact that you had paid Mr. Simmons money. Can you give us the date when you communicated to the counsel that fact that you had paid that money?

A. I cannot give you the date.

Q. Has not Mr. Simmons applied to you for money directly and indirectly, in person or otherwise, in other places than Washington?

324 A. Yes, sir; I so stated.

Q. Has he not since the receipt of the 5,000 dollars?

A. Yes, sir.

Q. The letter you produced yesterday written by Mr. Way in New York under date of the 17th of March last, was or was not that written under the advice and direction of counsel or shown to counsel before sent to Mr. Way?

A. No, sir; I don't think the counsel knew anything of it, or anybody else beside myself.

End of Mr. Anthony's 2d examination.

Testimony of Stillman Moore.

Q. Where do you reside, and your occupation?

A. I reside in New Haven, and have been in the gun business. I am a gun-maker by trade.

Q. For how many years have you given attention to that branch of industry in the varied capacities in which you have been connected with it?

A. I commenced 16 years old and served my time, and afterwards went to Pomroy's at Pittsfield, who was contractor for the government, also to the armory, where I was inspector, and also to different

armories throughout the country, as inspector of small arms for the government. I am 41 years of age. A portion of the time I have been in other business. At present I am employed at an establishment in New Haven, in making repeating arms.

Court. Where have you been inspector?

A. At the Springfield armory Remington's, Vermont, Eli Whitney's, New Haven, Middletown, Colts, and one or two other places.

Q. What are your present duties?

A. For the last year or nearly that I have been employed at this repeating arms establishment in assembling arms.

Q. Upon private employment?

A. I am now, sir. This is a private establishment. Up to quite recently I have been employed as a gov. inspector.

325 Q. How long since you were gov. inspector?

A. I should think about the year 1854. I was employed as inspector about 6 years. It is my impression that in 1854 I left the service, but I could not state positively.

Q. Your duties in these private armories have been what?

A. Inspecting different work or superintending portions of it, finishing the work, assembling it to see that it comes together right. At this present place there is no one but myself that has had the assembling of the first work. Other help does the work now. I was not the superintendent of the establishment; the superintendent had been in existence 5 or 6 years, but the work that is just finished from the new model they have just got out, they commenced assembling since the 1st of July.

Q. While you was inspector what principles and rules were particularly received by you for guidance in inspection to enable you to perform your duty as inspector of parts?

A. The instructions were the ordnance manual, and also instructions from an officer who had charge of the inspectors. Instructions were received from him usually in connexion with directions from the ordnance manual, and it is a usual thing when inspectors were sent out—in fact, I believe it was the rule—he should be sent out from Springfield or Harper's Ferry when that was in existence. As a general thing, they were employed as inspectors there previous to going out to the contract shops.

Q. Have you inspected or seen inspected frequently all the parts of the musket?

A. Yes, sir. I was employed as inspector for some months at the armory previous to my going out; and occasionally, while I was out in the contract service, sometimes there would be a delay in the work, and at such time I was employed at the armory. A large portion of the time I was in the contract service.

Q. In round numbers about how many times are the gauges applied in the inspection of arms to test their accuracy?

A. I could not tell precisely about that. I should say four or five hundred, perhaps, in going through all the parts and the different applications of the gauges, perhaps more than that. I know that a

326 single piece will require gauging at several points. With regard to the cone, as remarked yesterday, it was inspected 10 or 12 times. That is a small piece; some pieces would require more than that.

To the court. I have reference to the pieces separately. The barrel would require many more applications than the cone. I never have counted them, but I know that it is a good many, and at a rough estimate say four or five hundred all told.

Q. Of course the particular directions are contained in the ordnance manual. Now I will ask you, in the application of these guages how nice a degree of correspondence with them do you require in practice?

A. The instructions are that there shall be no variation in the gauges, at all. All the variation allowed that I recollect of is in the calibre of the barrel, which is very slight. The exterior dimensions of all the work are intended to be exact, especially where one part fits to another.

Q. Take for example two parts, any part of the stock and any part of the lock?

A. The lock should be precisely according to the standard on the gauge. If there is a variation in the lock-plate, the outside dimensions, it would not fit the recess in the stock; the lock-plate would not fit the cone-seat, and also in the thickness it would make a variation. If the lock-plate is not right, if it is too large, there would be a difficulty in putting two together, and also in the barrel, more particularly in relation to the lock-plate and the cone-seat. They should appear to the eye like a continuation of the same piece of metal. It is intended to be a close fit.

Q. Is the little part attached to the barrel so as to be part of the barrel?

A. Yes, sir, it is solid. The other portion looks as if it is connected, but it is not. There should not be the slightest variation in the barrel coming right. When they come together you must make them a dead fit. This is welded on under the forge; it is solid metal. You must test it by weight, so that when you look at it you cannot see that there are two pieces. This is the cone-seat which is attached to the barrel. The lock-plate is something independent of it. When they come together they must be so accurate that the eye cannot tell whether there are two pieces of metal or one, otherwise the hammer will not strike right. The size of the bayonet
327 and the barrel, for instance. The size of the barrel must be of the precise size for the bayonet; it would not answer to have the socket of the bayonet vary at all with regard to fitting the muzzle of the gun.

Q. About the breech, for example. Is there any particular accuracy required there?

A. That is also fitted to the receiver to correspond with the stock, and the same accuracy is required as in the case of the lock. In fact, all the parts should correspond precisely.

Q. Now the immaterial parts, if there are any, compared with the

parts you mentioned. Is there not a gauge for the dimension of the barrel between the bands?

A. Yes, sir.

Q. State whether that is as nice a point for accuracy as the majority of the places you have named?

A. It is considered nearly so. There are some 6 or 8 gauges in the length of the barrel a few inches apart. The barrel is gauged several times. It is gauged in the process of manufacture and at the time of proving. A little allowance is made in the size that it may be finished down. It is about the same size previous to proving. It is necessary that it be of the right size to fit into the stock, or else the difference would be expressed in an open cleft or gap.

Q. Is the degree of accuracy at the points between the bands as great or not?

A. There is not intended to be much difference there. It should fit over and under the bands. If too small or too large, there is a difficulty in putting the bands in place. Also there should be the same accuracy in regard to all the springs. If they are not of the right size, there is difficulty in adjusting them to the right place.

Q. You spoke incidentally of the powder test, as well before as after. How many tests of powder and ball are used?

A. The first and the second. The 1st is much larger than the second: also double the quantity of lead and wad.

Q. How do the charges for testing compare relatively with the charges expected for use?

Mr. Hazard. 250 grains is taken.

Q. After they have gone through the powder and ball test
328 then the barrel is subjected to the rigid inspection which you have named?

A. There is a gauge previous to this proof.

Q. And also afterwards?

A. No, sir, there is no necessity of that. It is gauged previous to this proof to see that the barrel is not too large. If it should be too large, the proof would not apply. After it has stood the proof it is subjected to examination to see whether the proof has thrown it out of line, sprung it or disclosed any defect of material. The inspection is not so thorough at that time as when the barrel is completed.

Q. Then this process of powder and ball proving is applied during the process of manufacture?

A. Yes, sir, always.

Q. Now, after the process of manufacture is completed and the gun assembled together, is it or not subjected to the accurate test of inspection by gauging and otherwise that you have spoken of?

A. Yes, sir. The barrel is the only part that is inspected previously to the finishing that I spoke of.

Q. We will inquire of you whether, in your experience in the manufacture of arms and parts of arms, as well as from your experience in the armory and in private armories during the period of time you have mentioned, it would or would not be practicable to make a musket successfully by contracting for the several parts of it among

independent contractors in different portions of the country, and bringing them all together to have them stand inspection—if there are any comparative difficulties between that and the mode of making them all in one establishment?

A. I think there would be great difficulty in that way; the work would not interchange. I suppose it is required that the work should interchange one part with another and correspond with the Springfield work. It was customary to exchange muskets with the Harper's Ferry armory. It was customary at the Springfield armory to exchange muskets with the Harper's Ferry armory several times a year. Ten or twelve guns were sent from Harper's Ferry to
329 Springfield to see that the work interchanged; so that parts of guns might be supplied when disabled or broken without any trouble. It requires a very great degree of accuracy. I should suppose there would be difficulty in making the arms successfully in the mode you speak of.

Q. Let me inquire whether the Harper's Ferry arsenal to which you refer, is the United States armory in existence for many years?

A. Yes, sir.

Q. Was the kind of arm intended to — the same in every respect with the arm manufactured at Springfield?

A. It was while I was in the business.

Q. They were in the habit of sending guns from one armory to the other for the purpose of making the manufacture a unit. Did they ever arrive at that result? Were they accurately interchangeable as units? and if not, say what difficulties there were in the way of it.

A. I never have seen arms so inspected and put together in the different parts. The question is one I could not answer, as I never have seen them put together. I have understood there was some difficulty in making them in that way; that there was somewhat of a difference in the arm, I do not know to what extent. When I was at the private armory of Pomeroy, in Pittsfield, muskets were sent from Springfield armory there for some purpose, and interchanged to ascertain whether the work was like, as nearly as possible.

Q. What result, if any?

A. I do not know. They were sent for that purpose.

Q. There were instances when the arms had been made in full and entire at each establishment?

A. Yes, sir; at Mr. Pomeroy's, and all others I am acquainted with, the entire arm was *was* made at the establishment.

Court. Did you mean to say, or not, that parts of the Pittsfield musket would interchange with parts of the Springfield musket?

330 A. They were intended to.

Q. Were there any difficulties in getting them to interchange accurately?

A. There were difficulties, yes, sir.

Q. I would draw your attention to certain facts in which the difficulties adverted to may be remarked. Did they or not keep a standard set of gauges which are not used for the purpose of testing works, or used as a standard to correct other works by; and did or

did not, in practice, the gauges which are daily made use of for the purpose of testing the parts gradually depart, to an imperceptible extent to the eye, from the original standard?

A. They do, sir; sometimes are sent back to the Springfield armory and others put in place of them. There would be a liability to it, especially in the barrel gauge, more particularly in the proof gauge, owing to the grit on the barrel from grinding.

Q. As a matter of fact, while you were in the Springfield armory, did it come under your knowledge, among the other facts with which you are acquainted, that this result was constantly happening among the results of manufacture?

A. Yes, sir; it required constant watchfulness on the part of the inspectors.

Q. Was or was not the certain mode of detecting variation in any of the gauges occasioned from that source, was it or not at the point where the arms were assembled?

A. That was the point, sir; the work was inspected in its different stages, also furnished and then assembled, and if the work did not come properly together, it would be more likely to be detected there than at any other point; probably the usual time of detection. The fact would be made known to the superintendent or foreman of the shop, and rectified.

Q. For example, suppose the gauge applied to the plate at a point where the lock-plate comes in contact with the gun-stock, or
331 should do so, if there was a variation in it of the $\frac{25}{10000}$ part of an inch, would or would not that variation be expressed when you came to bring the stock and the lock-plate together in the assembler's room, and show a slight variation, or such as was due to the error about the cone-seat?

A. That degree is quite small when expressed to the eye.

Q. Now suppose that the same variation took place in the size of the cone-seat, and there was $\frac{25}{10000}$ variation there, those two together would make $\frac{50}{10000}$. That would be more readily seen, would it?

A. Yes, sir.

Q. So, therefore, a variation which in either lock-plate or barrel might escape detection of the inspectors examining it in part, would become magnified when the two parts were put together in the musket?

A. That would be the case.

Q. Let me ask you, whether if the recess or mortise, as it is called—the receiving mortise—was a trifle too deep from the cut of the tool or the wear of the machine by which it was made, so that the lock-plate would be impressed a little too deep in the stock, would or would not that be a cause of rejection?

A. It would, sir; the lock-plate would not sit properly to the cone-seat. It would disturb its relation in both of these respects. After the screws were put in, it would draw the plate into the barrel or below the proper line of the seat of the barrel.

Q. Have you any means of knowing or forming an opinion of the

amount of investment in the Springfield armory—the establishment as it was in 1861—before the time of the recent large extension?

A. I know it is enormous, several millions of dollars. In the recent improvements at the water shop there was an enormous outlay; simply the dam alone cost some half a million of dollars.

Mr. Hazard. This man says he has not been at Springfield since 1848.

332 *Cross-examination of Mr. Stillman Moore.*

Q. When were you at Mr. Pomeroy's establishment?

A. I left there in 1846.

Q. At what time were these muskets from Pomeroy's sent to Springfield armory for acceptance or rejection—while you were there?

A. While I was there.

Q. At what period of time?

A. I know that arms were sent to Springfield from there and arms were taken there; at least, it was so understood in the shops.

Q. And those that were sent were accepted at the Springfield armory?

A. I mean simply to say, if the work would interchange, the work was received by the inspectors and most usually sent to the Waterville arsenal for storage; never was sent to the Springfield arsenal to my knowledge. I simply said that a few guns were sent from one to the other to see if that work would interchange properly.

Q. How was it with those guns sent to the Springfield armory from Pomeroy's establishment while you were there?

A. I do not know, sir; I was not in a position to know. I was in the position of workman. I know that a box which contains twenty was sent there, and the foreman and workmen both had cases of those guns. We would sometimes take a Springfield musket apart, and take the parts and put them into our gauges, and see how they corresponded. It was usually the case to have the muskets there, and see that the work would correspond with the model.

Q. Then you have no knowledge upon the subject whether they interchanged or not?

A. I have not.

Q. This making muskets, like everything else, is a practical matter after all, is it not? Your model muskets which are now in the country, formerly at Harper's Ferry, Springfield, and Washington, are in-

333 tended to be made as nearly perfect as human skill and mechanism can make them. Do you expect, as inspector, that the arms which are inspected and received by the United States are to come up to that model?

A. As nearly as possible the gauges are made to fit that model, and it is required that the work should correspond to these gauges and to the model; that they should be as exact as $\frac{25}{10000}$ of an inch. I do not suppose that they should come to that degree of accuracy mentioned here; but the intention is that the work should conform to the Springfield arsenal work as nearly as possible, and such instructions are given by the officer who has charge of the inspectors.

Q. Here is a contract taken from the government to manufacture 25,000 muskets. How are they to do this work when they get the machinery ready to manufacture? How do they get the gauges?

A. The gauges are made at the armory—furnished by the inspectors from the armory.

Q. This company have gauges to make each piece by. Where do they get those gauges?

A. I do not know, sir. I suppose, of course, they have gauges. I do not know where they get them. I never have been a contractor.

Q. You have worked in various establishments?

A. I suppose some contractors make them themselves, and have access to the Springfield armory. The inspectors are furnished with their gauges from the Springfield armory.

Q. Don't you know that all companies, and this one now in question, make gauges and have access to the Springfield armory, go there and stay as long as they please, and verify them by the standard gauges in the Springfield armory?

A. I suppose they have that privilege. The arms are made for the government, and it would be very likely they would have that privilege.

Q. Where and how did the men get their gauges that work at the Springfield armory and Harper's Ferry *get their gauges?* Are they not made practically in the same manner?

(Mr. Thurston objected.)

Q. What proportion is the cost of inspection of the cost of the musket?

334 A. That depends upon the circumstances—upon the quality of the work and the delay. I know that in some instances the cost of inspection has been very large indeed; the proportion I could not tell you.

Court. What do you understand by the cost of inspection?

A. I suppose he had reference to the length of time taken to inspect the arm.

Q. About how many muskets will an inspector inspect in a day?

A. I cannot say; they are inspected in such a manner that there is no certain quantity inspected each day. Sometimes the whole number required in part is inspected at once.

Q. Are they paid by the day?

A. Yes, sir; they are paid by the day and so much mileage.

Q. How many times would the gauges be applied to the musket in all its parts?

A. I should think four or five hundred. I mean to take all the parts; every part there.

Q. Do you mean to say, as a practical matter, that the inspectors of the United States employ all these matters of minutiæ and detail?

A. It is customary with us, sir.

Q. At that rate how many muskets could a man get through with in a day?

No answer.

Q. Are there not certain parts of the musket in which the inspection is more rigid and more exact than in other parts?

A. Yes, sir; there are some points in which greater exactness is required, but it is necessary that the whole musket should be accurately made. One part is required to fit another, and a little derangement in one part would be quite perceptible in any other.

Q. If the company had gauges made to verify by the standard gauges, and had a pattern musket furnished them, made up from the most accurate pieces at the Springfield armory, what is the trouble in making a musket to be accepted by the government?

A. I think there would be difficulty in the wearing of the gauges and the variation of the work; it is quite a difficult matter to
335 make gun work. A slight variation in the process of milling and drilling is almost inevitable.

Q. Reasonable men having access to the arsenal at no greater distance than Prov. could see whether the gauges verified or not, without difficulty, could they not?

A. Yes, sir; I should —— so.

Re-direct.

Q. You have been asked how many muskets a man could inspect in a day. How is the inspection conducted? Does one man take one part of the musket and another man another, and so on throughout?

A. It is somewhat different in the Springfield armory from the contract service. At the former such a large quantity of work is made that usually one inspector examines one or more pieces. One man would inspect a barrel; another would inspect a lock, perhaps not all the lock; another, guard-plate and bow; another, the bands. At the contract shops the plan heretofore has been different. There has not been as much work made at those shops as at the armory, and perhaps one, two, or three inspectors would be sent to those places, and they would examine the work as it was brought into them. Oftentimes one man would receive all the parts and examine the whole gun; at other times two or three, as the circumstances would require.

Q. How many in a gun factory capable of turning out two hundred guns a day would be the number of inspectors necessary to keep up with the work?

A. I could not answer that question. It would require quite a large number of men to inspect that quantity of work.

Q. Should you say 4, 5, or 6?

A. I should say it would require considerably more than six. It would require quite a force to examine that number of muskets.

Mr. Thurston. The testimony of Mr. Jencks yesterday was that he employed 16.

End of Mr. Stillman Moore's testimony.

336 *Testimony of Mr. Rob't P. Beals.*

Q. Where do you reside?

A. My headquarters at Springfield, Mass.

Q. Where are you at present residing?

A. I am at present inspector of cavalry sabres for the U. S. at the Prov. Tool Co. Works.

Q. You have been engaged how long upon that work, and what was your previous employment?

A. I have been in the gun business since 1839, at different places.

Q. How long in the employ of the gov't?

A. I came to the Springfield armory in the summer of 1849. I was there —— years, and returned in the gov't employ last fall.

Q. With what other part of the gun business have you been concerned?

A. At the armory I had charge of the alteration of flint muskets for 1½ year, changing the flint lock to percussion in 115,000, more or less.

Q. You mean the mechanical changes necessary to be made?

A. Yes, sir. The other 1½ year I was inspector of small parts, and occasionally after the gun was finished.

Q. Do you apply that as a description of some of the portions of the musket? And if so, what portions?

A. Well, the different portions of the lock in gauging and examining the material.

Q. Tumbler?

A. Yes, sir; lock-mounting—bands which would be included in the mounting bridles, stirrups and those parts of the lock, mainspring, sear and sear spring.

Q. What system of inspection is employed at this time, and at the time when you were connected with it? What principles do you apply, and what degree of exactness do you require?

A. The work was gauged in the manner which has been illustrated here, and examined as to quality of material.

Q. Is the workmanship also examined critically?

A. It is.

Q. In round numbers how many times are the gauges ap-
337 plied for the final inspection?

A. I could not answer that question very accurately; several hundred.

Q. The manner of applying, you say, has been already illustrated.

A. I have attended and heard the illustrations, and they are generally correct.

Q. With regard to the instructions which you receive, from what source are they?

A. I derive them from the Ordnance Manual and from Major Thornton, who has charge of the inspecting and is inspector-in-chief. That is one of his duties.

Q. Have you ever received any oral instructions from him, in the discharge of your duties which you have performed in the armory, to depart from the rigidity required by the regulations?

A. No, sir.

Q. Should you feel that you were, or were not, discharging your duty for complying with any regulation, or permission given you, to

pass any part of the musket by an inspection of only ten per cent. of the articles submitted?

A. I never heard of any such instructions.

Q. Did you know of any such thing, or of anybody else doing it, until the trial of this case?

A. No, sir. I do not think any one has ever had instructions to do so. If they do it, they do it at their own responsibility.

Q. Would, or would not, such a course of procedure be in compliance with the directions received?

A. It would not be in compliance to examine one in ten.

Q. Practically, in the discharge of your duties, do you, or do you not, examine critically each article in detail?

A. I do.

Q. How nice a correspondence with the standard required by the model arm, and expressed in a set of gauges which you have, do you require? How close a correspondence in general; any considerable latitude?

A. Not any latitude, only in regard to the calibre of the barrel. The work is to be like the model.

338 Q. From your experience in the business, let me inquire what difficulties would be in the way, and whether those difficulties would be almost insurmountable in practice, or entirely so, in contracting and making the musket by different individuals, each having his own gauges on his own account, in different parts of the country, and assembling them together?

A. I do not think, with my experience and observation, that it can be done successfully.

Q. While you were in the Springfield armory, state whether or not the standard set of gauges, to which all the other gauges are to be referred for correction, were used or not practically in the shop, or whether they were kept for reference.

A. I think they were kept.

Q. Now, in the course of the regular prosecution of the business, the frequency with which the gauges are applied for the manufacture of muskets from day to day, does or does not this practically demonstrate the fact that those gauges are subject to gradual wear and variation?

A. They are so unless they are watched very closely. The first they know they have a lot of poor work on hand.

Q. At what point in the processes of the passage of the gun through the armory, are those variations detected more readily?

A. A very slight variation in the bridle, or tumbler, or tumbler-pivot, would disarrange the lock in the total inspection or assembling of the arm.

Q. With this slight variation creeping in, would or would it not be apparent in the assembling of the arm by the parts not coming together as they should? Suppose a variation should occur in any one of the parts, as for instance in the lock-plate, or in the cone seat, so small as not to be detected by the eye, would it not be aggravated when those parts were brought together?

A. Yes, sir; for the lock-plate might be larger, and it would not go into the stock. If the variation was small, it would leave a slight opening.

Q. Suppose the lock-plate was a little small, then it would go into the stock of course?

339 A. Yes, sir.

Q. Suppose the mortise was a little large when the parts were brought together, the sum of those errors would be put together, would they not?

A. Yes, sir.

Q. I draw your attention to more important variations still. Suppose the cone-seat were a little small, how would that variation affect the other parts?

A. If the cone-seat was a little small, it would leave an opening around it that would insure the rejection of the barrel, and the best part would be thrown away.

Q. In the Springfield armory is there not a system like this, that if the barrel was too small about the cone-seat, and another lock was too large at that same place, so that one error would compensate the other, and the two when brought together would make the error perfect, would they throw away the whole?

A. They throw away the whole; they don't do business that way.

Q. Do they permit you to adopt, so far as your instructions have been concerned, any such latitude with private contractors?

A. No, sir.

Q. Upon this subject of the difficulties of making articles by different contractors and bringing them together, is there not in fact, in your experience in the manufacture of sabres, a proper illustration of the subject upon which you speak?

A. There is. The Prov. Tool Co. have had the hilts of sabres manufactured at 2 or 3 different places. They had a model to make them by, and they have been sent in as fast as they are finished; and out of 3,000 that were brought in, 1,900 have been rejected and sent back.

Court. I feel alarmed at the expansions and extensions that are continually developing themselves.

Mr. Thurston. The point has been made in a portion of their case, and is to be relied upon, that inasmuch as parts of muskets have been made by different individuals, those parts can be successfully assembled, and the contractors do what they have contracted for.

Court. The sabre is not a musket.

340 A. The result would be the same if it had been a gun-stock.

Q. Were you at any time practically acquainted with the manufacture of gun-stocks?

A. I have been somewhat.

Q. Did you meet with the same sort of difficulties you have mentioned?

A. Yes, sir. I took a contract with Lawrence Robbins & Co., of Windsor, Vt., for the manufacture of several thousand locks. We

had trouble in several points. I recollect at one time the but-screw holes were a little out of place, so that we lost some work.

Q. That was an instance where parts of the work contracted for were done in one shop.

Cross-examination of Mr. Rob't P. Beals.

Q. The Ordnance Manual prescribes the kind of wood of which a gun-stock shall be made, and how long it shall be kept, whether kiln-dried or not; every direction given for manufacture.

A. Yes, sir; I think so.

Q. You were at the Springfield armory in 1849. You have been employed since for how long a time?

A. I went back there last November, and made application for work. They sent me to Hartford, Conn't, to the Colt armory, to inspect pistols for the government.

Q. How long was you employed?

A. I was there about 2½ months.

Q. You are now in the employ of the tool co.?

A. I am in the employ of the government at the Prov. Tool Co.'s works.

Q. When did they get this contract from the government to manufacture sabres? Was it not since July last?

(Objection made and sustained.)

Q. The tumbler is a very important part of the lock. About how many times is the gauge applied to the tumbler?

A. I could not tell exactly—10 or 12.

341 Q. Suppose, as government inspector, you were called upon, on contract work, at the Springfield armory, to inspect 10,000 tumblers lying together. You should take out from the tumblers, promiscuously, 100 and apply the gauge all the time to each individual tumbler and find the 100 to fit precisely the gauge in all the different applications: would you or not practically, as inspector, go through with every remaining tumbler with that degree of accuracy?

A. I would examine every one, for that 100 might be picked out for me to examine.

Q. I say take them out of the box promiscuously, just as your hand falls upon them, till you make out a hundred, apply the gauge the number of times required by the regulations, find them all receivable: would you go through with the 9,900 with the same degree of particularity?

A. I would.

Q. Do you know contractors, such as the defendants, provide themselves with gauges, such as are required for the muskets, where they have a contract for 50,000?

A. They make them themselves.

Q. How do they test them?

A. They test them by the model they have to make the guns by.

Q. Do they go to Springfield?

A. No, but they have to fulfil the contract, and make the gauges by this model. They probably have the privilege of going to Springfield to make corrections if they need them.

Q. If they go to verify them, what is the difficulty of making arms to be received?

A. It is not a practical way of doing business. The gauges will be worn, and, as far as I understand human nature, there will be a great deal of poor work.

Q. Are not the guages at the Springfield armory made in the same way?

A. Yes, sir; and if there is any variation or trouble it is corrected there in the shop without any delay of any kind.

Q. Would you not, if you were the contractor in place of the defendants, having provided yourself with gauges, feel called upon to visit Springfield and see if they did not vary?

342 A. That would be very well, too, and they probably would have the privilege.

End of the testimony of Mr. Rob't P. Beals.

Testimony of Mr. David Brown.

I reside in the town of Sprague, Conn. I am employed in Prov. by the Prov. Tool Co.

Q. Did you at any time have any connexion with the carrying or introducing of any system of arms to Europe? If so, when?

A. In 1855 I went to Europe for the British government, to start an establishment at Enfield.

Q. Was there or not at that time a company known by the name of the London Arms Co.

A. There was. They started after that two years, in 1857.

Q. Did you know of a Mr. Lehman who testified as a witness, who said he went out for that co.?

A. I do, sir. I saw him last Friday.

Q. Did you know him in Europe?

A. I did, sir. I knew him before he went there, and know him here.

Q. He stated that he was informed that the cost of that establishment for making arms was $150,000. What was the cost of that establishment?

Mr. Blake. This is not legal testimony.

Mr. Thurston. It is the same testimony that was admitted for Mr. Lehman, who knew nothing about it himself, but was informed by the superintendent. He worked upon very subordinate parts of the gun. They put in that testimony from that basis. Now, from the same source, I propose to contradict it.

Mr. Blake. If any testimony was admitted that was illegal, it was not objected to.

Mr. Thurston. We did object to it, and it was admitted.

Here followed an extended discussion.

Mr. Thurston. It is of no consequence in itself, except that

343 they attempted to introduce the testimony of Mr. Wheelock, who stated that Mr. Howe was so incompetent, all of which will go to show that our difficulty is ignorance and stupidity. We propose to show them from the very same source that the $150,000, instead of cost of the establishment, covered simply the cost of machinery at Chicopee and the tools.

Witness. I saw this machinery in the London Arms Co. 50 or 100 times.

Q. You know the character of that machinery, and worked upon it and built every machine there of the same kind.

A. I worked at Chicopee 4 years, and therefore I know all about that kind of machinery.

Q. They did not build the entire gun at the London armory establishment?

A. They built the gun with the exception of the bayonet, barrel, ramrod and cone. Those parts were built in Birmingham.

Q. Their machinery, then, was adapted to make the other parts which go to compose the arm?

A. Yes, sir.

Q. What would the machinery cost with its fixtures to build all the parts of the gun that they alone only constructed?

A. Ten thousand pounds was the sum that I should set—about 50,000 dollars—to build the machinery that they did not build.

Q. Now take the machinery that they did actually use, with the tools and fixtures?

A. That machinery cost at least $160,000, with the tools and fixtures ready to run and make the gun complete with those parts.

Q. How does that estimate which you have formed from your experience correspond, in point of cost of the machinery, with the information as to the actual cost derived from the superintendent of the work?

A. It comes to some $10,000 more than what he told me. He told me 30,000 pounds.

Q. What machinery did it cover?

A. It covered what they had brought from the United States; only that made in this country.

Q. You know the kind of machinery that was made?

344 A. Yes, sir.

Q. What proportion of the fixtures and tools were made there?

A. I think there were not so many made there. But those that were made in this country had to be altered there, as the model furnished Mr. Ames at Chicopee was not right.

Q. Have you seen this Mr. Lehman within a few days?

A. Yes, sir, I saw him last Friday evening, about 6½ o'clock. He came to the Prov. Tool Co.'s works and called me out.

(Mr. Blake objected.)

Mr. Thurston. We gave you notice three days ago to produce Mr. Lehman; we now give you notice to produce Mr. ——

Witness. He asked me if I would ride up street with him. I said

I was just going to tea, and I did not care if I did. I rode up as far as my boarding-house. I got out of the carriage and told Mr. Lehman he could not leave before 10 o'clock, and if he had a mind I would meet him at the Aldrich House about 7 o'clock. He said he would be there. I went there. It was 8 o'clock before I got there. He called me out one side. We sat down in a room there and he told me about his evidence given in this court.

Q. Repeat the portion which brings it directly to the point.

A. He asked me if I did not think a gun barrel could be made for $3. I told him no. I asked him if he had testified to that effect, that it could be done. Said I, "Lehman, you lie if you said that, and you know it." That was the substance of it.

Q. What further took place?

A. Said I, "Mr. Lehman, what compensation do you get for giving in such evidence as that?" I am on just as good terms with him to-day as I was then. It was in a joking way, but I meant what I said. He said, "I don't know as I get anything in particular." Said I, "Don't you expect to get something if they get their case?" "Well," says he, "I do expect to get $50 as pocket money." Well, I told him, I should want more than $50 pocket money.

Q. What did he say he had actually got?

345 A. He had got $4 a day for his time, and all his expenses paid.

Cross-examination of Mr. David Brown.

Q. You say that you was employed to go to Europe and establish works for the British government at Enfield, and you say that was in 1855. Who made the contract with you, sir?

A. A man by the name of John Jarvis, a British officer, who was engaged in inspecting arms for that government in Sharp's armory, Hartford.

Q. What was you then doing?

A. I was then engaged in the Springfield armory. I was to work on gun tools; you may say jigs, gauges, dies, mills, and taps.

Q. What was you doing in relation to those parts of the tools?

A. Making them.

Q. Did you make them alone?

A. I had some one to help me. I had an overseer over me. I was not an overseer.

Q. Did you take out men with you when you went to England?

A. Took out machinery. I did not take out any men myself.

Q. Who did take out the men?

A. The same steamer that took me out.

Q. What was your duty? What did you do when you got there?

A. I helped make the tools; had charge of the barrel department for some years. My position was foreman of making the mountings for the gun and the barrel; what they called the furniture there—but-plate, guard-plate, guard, bow, guard-bow, nuts, swivel, band-spring, bands, ramrods, front sights.

Q. You were the overseer of those parts at some portion of the time there?

A. I was one year with the furniture of the gun; three years with the barrel—overseer of the barrel—of the rolling and the finishing after the iron was delivered.

Q. Was this a new concern?

A. No, sir; they had built guns by hand.

346 Q. This was in Enfield, was it?

A. Yes, sir.

Q. It was at the same establishment where they had built by hand before?

A. Yes, sir. It was for the government Enfield rifles.

Q. In what capacity did you go out when you first went?

A. There was nothing stated about my capacity. To assist.

Q. How many men went out from this country?

A. Four went when I went out; one went before.

Q. What position did J. H. Burton have?

A. He was chief engineer.

Q. You went to establish this concern for the British government? There was no engagement as to what position? Do you mean to say that you went out employed on gun work by the British government?

A. I took one part, and carried through one branch.

Q. What do you do now in the tool company's establishment?

A. I am starting the barrel department; making the tools for the barrel department now.

Q. How long have you been there with the Providence Tool Company?

A. I have been there since February or March.

Q. Do you understand that they make guns at Birmingham?

A. I went out there to inspect guns for Col. Colt.

Q. I will ask you if you know, from personal knowledge or general reading on that subject connected with your employment, whether or not it is and always has been there the custom in Birmingham to make guns more extensively than in any other place in the world?

A. At Leeds, Belgium, they make more.

Q. Is that recently?

A. Within the last five years they have manufactured more there than even in Birmingham.

Q. For a great many years back is the mode of doing business in Birmingham for one establishment to make the whole gun, or

347 in entirely different establishments for each to make different parts of the gun?

A. They have not had an establishment. They have had an inspector's shop, and men have carried this work from this place to their houses, and done it in their cellars and garrets.

Q. As a general system, now or at any time within fifty——, are they not made in entirely different establishments, and then assembled?

A. They are; but they are not interchangeable guns.

Q. How can they be assembled unless they are interchangeable?

A. They are made without any regard to gauge. Each one is fitted to its place. No two locks will go into the same place.

Q. If the establishment makes several hundred parts of the gun,

they are made with reference to other parts of the gun that are all together made at the different establishments, to be assembled, are they not?

A. Yes, sir. They are made to be assembled and put together separately, each part for its own gun.

Q. Still different establishments make different parts?

A. They are fitted when they come together; what they call assembling.

Q. Are the different parts of the lock made in Birmingham?

A. The stock is not made until all the different parts are made.

Q. Is there a general supply of stocks made, or is the stock made for each particular gun after the parts are assembled?

A. They make the stock before they assemble, and after the barrel is made; and the ramrod, but-plate, lock, side plates, and bands are all brought to the place before the stock is begun.

Q. They make these muskets in England now by machinery?

A. They do at the London armory and the Enfield armory; no others.

Q. When were you first spoken to about your being a witness on this trial?

A. I spoke about it myself first.

Q. When did you first speak of it?

A. I spoke about Mr. Lehman, in coming up, to the clerk of the establishment, and asked if such a man had given such evidence. He said he believed he had. I said I did not know that he
348 was on the case till he had come and told me this.

Q. When did you first hear about there being such a case?

A. I think Mr. Norris told me that last winter.

Q. When did you hear of it in the establishment?

A. I have not heard of such a case lately. I have heard the hands speak about it that there was such a case. Have not heard anything definite about it.

Q. When did you speak of being a witness?

A. I spoke about what Mr. Lehman said. They asked me if I would not be a witness. I think it was Mr. Dart, who is a clerk there. He asked me if I would testify to this thing. I said I would.

Q. Who did you mention it to?

A. To Mr. Dart. I went to Mr. Dart; I met him in the factory, and told him.

Q. How long have you been employed in the tool factory?

A. Since March.

Q. Do you know Mr. A. H. Almy, of Norwich?

A. Yes, sir.

Q. Does he have a contract for making guns?

A. It is said to be the Tribune newspaper contract.

Q. Did you recommend him how to have them made?

A. I recommended him to go and start an establishment.

Q. You did not recommend him to have the different parts made at different places?

A. No, sir; that was not my recommendation for the advantage of

the company. I recommended him to make the guns himself, and he went round and ordered $50,000 worth of machinery.

Q. What did you say to him about having different parts made in different places?

A. He told me that was his plan, and wanted me to go and help.

Q. What is your age?

A. My age is 39.

349 *Re-direct.*

Q. You have been asked about the character of those Birmingham arms. Let me understand. If you should take a thousand and distribute them into as many boxes, and attempt to assemble them together without a file and appropriate tools, how many muskets would you get together?

A. The Birmingham folks while I was at Enfield, sent up by order of the Sec'y of War, to have 20 guns made at Springfield, to have them interchange. I looked over some thousand barrels in the regular work before I got the twenty, although that was called interchangeable work. We took those guns and looked over as many as a thousand parts of each kind, and got those 20 out and took and hustled them up in a bag, locks and screws, and assembled them. It is impossible to take the guns at Springfield, as a regular run of work, and have them interchange.

Q. How does the Birmingham arm compare with the musket made at Springfield, in finish and detail?

A. They are nothing to compare to it. The work is very poor and being fitted at the house, the work is not looked at until it is finished, and when 'tis finished, if there is any fault they cannot remedy it.

Q. You speak of its being made in houses and garrets; is it not hand work?

A. It is all hand work in Birmingham.

Q. Speaking of your employment for the Prov. Tool Co., you are now making tools for the barrel department? Have you not charge, from the commencement to the end, of those who are engaged on tools for the department?

A. Yes, sir.

Q. After the tools are made and the business is in its regular progression, your duties will be what?

A. To look after the barrel from the rolling to the finishing, including boring, turning, grinding, polishing, reaming, rifling, and all the stages and processes of the barrel.

Q. The London Armory Co. make the same sort of musket that was made by the government?

A. They did. We furnished the model from Springfield.

350 Q. Didn't they make a certain portion for the gov't?

A. They were under contract for 30,000 guns since 1855, for the British gov't and have not got them done yet, or had not last year, when I was there, in July. They had turned in 15,000 out of the 25,000, and had been five years about it.

Q. You were there last July, for Col. Colt?

A. Yes, sir.

Q. Did you have any conversation with Mr. Anthony, treasurer, or Mr. Howe, superintendent, relative to being witness in this case?

A. Not till I was called on since last Saturday.

Q. That was your first conversation with Mr. Anthony upon the subject upon which you are to testify?

A. Saturday evening about 6 o'clock. Before that I had no expectation of being called upon in this case.

Q. (By Mr. Hazard.) You don't mean to say that you worked upon the identical machinery used by the London Armory Co.?

A. No, sir, I did not.

Mr. Blake. We shall have testimony on the subject of this testimony, and if the witness goes away, it will be on your own responsibility.

End of the testimony of Mr. David Brown.

Testimony of Henry W. Gardiner.

I am a manufacturer of steam engines, tools, and also machinework.

Q. Do you know Samuel Norris, the plaintiff?

A. I do.

Q. Did he act or attempt to act in your behalf for a gunboat contract?

A. Yes, sir.

Q. Did you employ him in the first instance, or how did you find out he had something to do about it? Where did your acquaintance first commence with him in connexion with getting a gunboat engine contract?

351 A. A little more than a year since, I had made a bid for engines for gunboats for the Navy Department, and my first connexion in this matter was about a year since.

Q. Did you put any bid through Mr. Norris?

A. I did not.

Q. When did you find him with a finger in it?

A. About the time the contracts were given out I received a telegraphic despatch from Mr. Norris, in relation to the bid which I had made.

Q. Had you employed him before?

A. I had not. I did not know that he was there.

Q. Had you any previous conversation with him on the subject? What was the nature of the despatch?

A. The substance of the despatch was that the bid I had made was too low a bid.

Q. What further connexion did you have with him, relative to this business? State how it progressed.

A. At the same time that I made the bid, Mr. Manton, of the Hope Iron Foundry, also bid for an engine for a gunboat, on the same terms as mine. After I received this despatch, I received letters from Mr. Norris, and also letters written to him for Mr. Manton, which were intended for my perusal.

Q. Please produce the letters which you have, showing the business he was engaged in, and the employment he was about.

Witness reads the following letter :

WASHINGTON, *July 8th*, 1861.

Mr. H. W. GARDNER.

D'R SIR: Yours of the 3d inst. is received. I hand circular enclosed. I have gone and seen the Secretary, and he promised Rhode Island her proportion of the next lot. I have also the promise of Mr. Simmons to stir the matter up thoroughly, and doubt not you will succeed next time. I have asserted that you have built marine engines. If you have done so, say for whom. The Boston Journal has a list of contractors, if you have not seen them. I have expressed
——— to the Secretary, and he could not deny that small es-
352 tablishments had received the contracts. I will look out for your interests and will keep you advised.

Another letter, dated July 9.

HENRY W. GARDNER.

D'R SIR: Your two valued letters came to hand. I am glad to have your statements to go upon. Now I can talk facts. At the proper moment, I shall talk plainly. The Secretary shall know enough to insure you any future contracts. In reply to your other letter, I presume to say, &c.

Also a third letter.

Q. He speaks of an enclosure directed to Mr. Allen. Who is Mr. Allen?

A. He is superintendent of the armory at Springfield.

Q. Did you afterwards at any time, or about this time, make a power of attorney to send to Mr. Norris, at his request?

A. I did, to enable him to act in the matter of the gunboat contract.

Q. That power of attorney is in Mr. Norris's possession?

A. My impression is that the power of attorney was returned and destroyed.

Q. Did you at any time have any conversation with Mr. Norris, and if so, when, upon the subject of any contract issued for arms to the Prov. Tool Co.? If so, what was said?

A. I met Mr. Norris after his return from Washington. I was then on my way home, going to New York in the evening. Mr. Norris was on his way from the New York to the Warren and Bristol depot, on the way home. I was in my chaise. Mr. Norris told me he had just arrived from Washington. We had some conversation about the gunboat engines. He remarked that he had something he would like to tell me. He asked me to get out of the carriage, as some one was in the carriage with me. Mr. Norris then remarked that he had just closed a contract for arms, to the amount of half a million of dollars. I asked if he obtained it for himself, or for other parties.
The reply that he made was that he did obtain it for himself,
353 and used the name of other parties in getting it. He requested me not to mention it until I heard about it from another source.

He said, "It will be out by the time you get home." He requested that I should not mention it until I heard from it in some other way.

Cross-examination of Mr. Henry W. Gardner.

Q. (By Mr. Bradley.) Had you made a proposal to the Navy Department to make a bid for several engines?

A. Yes, sir. I think I made a bid for several—more than one.

Q. At what price did you offer to build them?

A. My impression is that it was $40,000 for building the engine machinery.

Q. Were you informed by Mr. Norris that he was apprised that your offer for building the engine was much too low?

A. I think that was the substance of his despatch.

Q. He was intrusted to perform a friendly act. Was that information sent to you that the bid was too low, by Mr. Norris as a friend to you?

A. The despatch is that the bid is too low. I think the despatch is destroyed.

Q. Where is the first letter you received from him?

A. The only letters I received were those of July 1st, and those following. Those three are all that I found in my files; I pre-
355 sume all that I received. Here is one, Prov., June 21, 1861. I answered that in this way, "Usher Wood's story is all a lie."

Q. Were those contracts obtained? Have you paid Mr. Norris anything for his services, friendly or otherwise?

A. I never have.

Q. Has he made any call?

A. He has not.

Q. When was it you saw him, and he had the conversation with you?

A. It was on his way home from Washington. It must have been in June or July of last year. It was on South Main st. I asked if he had obtained it for himself or other parties.

Q. Did he tell you who it was for?

A. He did not.

Q. Did he say he wanted to keep the matter quiet until it came out from its natural source?

A. I did.

Q. You stated that it was when he arrived from Washington on his way to Bristol. Do you know that he had telegraphed these parties, and that he was going to the counting-room to give them the contract?

(No answer.)

Q. Can you give me his expression as to whether he had an interest in the contract?

A. His reply was, as I stated it, to obtain the contract for himself. He stated that he had obtained the contract for himself, and used the name of other parties in getting it.

Q. What did you understand he meant?

A. I understood he meant what he said. I didn't inquire any particulars about it. I had no sort of interest in it whatever.

Q. Then you didn't understand how it was at the time, whether it was for other parties' benefit or not?

A. I understood nothing of the details of the contract. I suppose he felt gratified at having got the contract, and wanted to tell somebody of it.

Q. You have received a good deal of employment from Mr. Norris have you not? He had been serving you gratuitously that
356 summer, and said something about it you didn't understand?

A. I understood only what he said.

Re-direct.

Q. Was it a friendly service or a service for hire that was rendered to Mr. Manton? You understood from the Springfield letter, relating to the Springfield contracts, that it was a service for commission where anything was arrived at?

A. I did understand it.

Q. Do you understand that if anything was obtained for the gunboat engines that it was for commission?

A. I suppose if he succeeded in getting a contract he would be paid for his services. I never had any conversation in regard to any compensation.

Q. Mr. Manton was also interested in the same subject?

A. Yes, sir.

Q. Mr. Manton had interviews with him?

A. Yes, sir.

Q. Who is the person referred to by the name of Murdock in that despatch and in the letter as feeling very bad?

A. He is a gentleman in Washington, to whom I had a letter of introduction when I went on.

Q. What is his official position?

A. He is clerk in the Navy Department.

Q. He was the gentleman who communicated to Norris what he communicated to you as his friend?

A. I do not know anything about it.

End of the testimony of Mr. Henry W. Gardner.

357 *Testimony of Mr. James S. Brown.*

I reside in Pawtucket; my occupation is a cotton machinist; I have been in the business since 1817.

Q. Extensively or otherwise?

A. Quite extensively.

Q. How many men do you employ?

A. We have had 140 sometimes.

Q. Are you accustomed to make examinations of machinery and subjects connected with the mechanic arts for the purpose of estimating their cost?

A. I have been somewhat, sir.

Q. Did you examine into the subject of the manufacture of arms for the government, of the Springfield pattern, at any time?

A. I did examine the subject; I looked into it.

Q. How long have you been acquainted with the Springfield armory, and been in the habit of visiting it?

A. I was there for the first time in 1821.

Q. How often have you visited there since?

A. I have been there once in 2 or 3 years. I have only stopped to see what was going on.

Q. What was the object of the investigation that you made last summer on the subject of the cost and manufacture of arms?

A. I went with Mr. Howe to see the tools they had, &c.

Q. What conclusion did you arrive at on the question of the economy of going into the manufacture of arms on a contract of 25,000?

A. I concluded, from my observation, there—

Mr. Blake interrupts. I do not see what information he has as to the manufacture of guns.

Court. He says he is accustomed to estimate the cost of making machinery.

Mr. Blake. Would you produce every manufacturer of cotton machinery to give an estimate on a gun contract?

Mr. Thurston. Do you feel yourself competent, from your experience in making cotton machinery, to estimate the cost of machinery necessary for making guns?

358 A. I should come as near as some others, perhaps.

Q. Are you making gun machinery?

A. I have made some, sir.

Q. Are you under contract to make gun machinery?

A. I have within a few days.

Q. Did you take a considerable contract from Mr. Jenckes?

A. Yes, sir.

Q. You built machinery to a considerable extent to manufacture guns for the Prov. Tool Co.?

A. Yes, sir.

Q. You are not so forward in your statements of what you have done as others. What result did you come to from the knowledge you have on the subject, and which you brought to bear upon that investigation as to the economy of going into one of these contracts—as to the economy of making the machinery?

Mr. Blake. I object to that form of question. He can tell as to the cost of making machinery.

Mr. Thurston. Here is a proposition to make 25,000 muskets in a time specified according to a contract, with the terms of which this witness is familiar. A certain amount of machinery is necessary. When the machinery is obtained, and the processes established by which the arm is to be made, the difficulties are mainly surmounted. I want to show the extent of investment as compared with one of these contracts, whether it would pay, in his judgment, to go into it. We shall expect to prove from him, in view of these facts, that it would not answer to attempt the enterprise.

Mr. Thurston repeats the question.

Court. I think it is a very general conclusion.

Mr. Blake. We object to it, because it includes the making of guns, which he says he knows nothing about.

Court. I am of opinion that this man does not possess sufficient experience, as an expert, to go into the estimate.

Q. What am't of expenditure would be necessary to furnish
359 the requisite machinery to perform one of these contracts?

A. Well, sir, it would depend upon the time when the work was to be done.

Q. Suppose the time to be, one thousand delivered at the end of six months?

A. Well, sir, I don't think there is machinery enough in the State of R. I. to be brought to bear to accomplish that in that time.

Q. It would require a very vast amount of machinery?

A. Yes, sir, it would in that time.

Q. What would be cost of machinery, in your judgment, in sufficient quantity to produce, when regularly organized, 2,000 guns p'r month?

Mr. Blake. Ask him if he has any doubt about the quantity of machinery necessary for making guns.

A. I have no knowledge exactly about the quantity of machinery for turning out guns.

Q. Can you form a fair opinion?

A. I could not of the whole; some parts of it I could.

Q. Are there any particular parts?

A. The barrel machinery I have had most to do with.

Q. What would be the cost of the amount of barrel machinery necessary to produce 2,000 a month?

A. It would take $15,000 for barrel machinery.

Q. Do you include in that the rolls?

A. Yes, sir.

Q. Do you include the rifle machinery?

A. Yes, sir.

Q. Are there any other parts of the arm, with the machinery to manufacture which you are familiar?

A. Well, sir, as to the general manufacture of machinery, I am somewhat familiar with it.

Q. The court feels doubtful whether you have sufficient experience to testify; if you don't have that experience, say so?

A. I have no experience, only what Mr. Jenckes told me last May, about what they had expended, and from a visit to the es-
360 tablishment.

End of testimony of Mr. J. S. Brown.

No cross-examination.

Testimony of Mr. Thos. J. Hill.

Q. What is your employment and residence?

A. I am a machinist, and live in Warwick.

Q. How extensively are you engaged in the manufacture of machinery?

A. Not very, at present, sir.

Q. What has been the extent to which you have employed?

A. I have employed 400 men at all my places at work at one time.

Q. How many years have you spent in making machinery in its various branches?

A. Thirty years and upwards.

Q. Have you investigated the subject of making arms under one of these contracts with an idea of going into it?

A. To some extent.

Q. To what extent?

A. I investigated to that extent that I found I could not make any money by taking a contract for 25,000 guns.

Mr. Bradley objected, that there was no evidence that he had been engaged in the manufacture of guns.

Mr. Thurston, in reply. Q. From your knowledge of machinery, would you be enabled to state what the cost would be of gun machinery?

A. I did make an estimate of the cost of machinery for making these guns.

Mr. Bradley. I would like to ask him whether he made it from his own experience or from information?

Q. What kind of machinery have you made?

A. Almost all kinds of cotton machinery.

Q. And made some machinery for gun work?

A. I made milling machines for the Burnside Rifle Co., a portion of them within the last eight months.

361 Q. Do you feel that you are perfectly competent to examine into and form a corect estimate as to the cost of the machinery necessary to make any particular part of the gun?

A. I suppose I could form a pretty correct idea of it.

Q. For example, if you were called upon to examine the cost of rifling machines, would you have any difficulty in forming a tolerably correct estimate of the amount of machinery necessary?

A. I will state that I did make an estimate on what I supposed to be the cost of this machinery, and found it to be much more.

Q. What result did you arrive at, from the estimate you made of the cost of gun machinery, for the purpose of going into the manufacture of arms.

A. The result of my inquiries was that, upon looking the thing over and obtaining all the information I could, my foreman going to Springfield, that my machinery would cost us $110,000. That was what I supposed at the time I refused to take the contract.

Q. What is your opinion now, from the information you have derived since, as to the expenditure necessary?

A. I should say what was said by Mr. Jenks on the stand yesterday; that was not my estimate; it was much more than what I estimated it would cost.

No cross-examination. End of testimony of T. J. Hill.

At this point Mr. Thurston put in from the Ordnance Manual, pages 183 to 192, and pages 210 to 222.

Testimony of Col. Richard Borden.

Q. What is your position with the defendants?

A. I am stockholder in the Prov. Tool Company, and I am one of the directors.

Q. What is your official position?

A. I am also president.

Q. When was the subject of making arms for the government by the Prov. Tool Co. first brought to your notice?

362 A. I cannot tell exactly the date; somewhere about the 1st of July, 1861. It might have been the latter part of June that it was first talked about.

Q. Had the company before that time anything to do with the manufacture of arms in any of its branches to your knowledge?

A. They were not engaged before this time in the manufacture of arms at all.

Q. Did you have any experience yourself, or any knowledge yourself, as one of the board of directors, of the things necessary to be procured, the investment to be made, or the processes necessary to be employed in the manufacture of arms, at the time this subject was brought to your attention?

A. I had not, sir.

Q. Did you, after this contract was executed by the government, make inquiries to investigate the subject somewhat?

A. I did, sir, in a measure.

Q. You heard Mr. Anthony's testimony in relation to going to Springfied; that was correct, was it?

A. Yes, sir.

Q. What was the result of that investigation?

A. I went with Mr. Anthony and Philip D. Borden to Springfield, to make inquiries, to know what was necessary to make the arms.

Q. What conclusion was arrived at?

A. I went through the Springfield armory, and after going through, and examining the machinery, and inquiring what they could produce with the machinery they had, I came to the conclusion at once that there was no money to be made out of it.

(Mr. Blake objected.)

Q. Did you come to Providence with the design of going into the business?

A. I did not, sir.

Q. Afterwards, and on the 24th of July, the Prov. Tool Co. did become parties to a contract, whereby they were to make arms for the U. S. government. What induced you, as member of the directors and president, to go into it?

A. There seemed to be a very great call for arms, and the other members of the company thought we might possibly make ourselves

whole by going into it. My opinion was different at first. I
363 consented to it afterwards.

Q. Your name has been referred to as writing a letter to Mr. Anthony. Is that the letter?

A. Yes, sir; the first letter is as follows:

JULY 25*th*, '61.

Col. RICHARD BORDEN, *Fall River.*

DEAR SIR: Mr. Norris has been here to-day, and is anxious that a settlement should be made in regard to his claim. He desired a proposition from me, but I told him I was not authorized to make one, but that I would submit the matter to the directors, and report to him. I told him his ideas were so much above ours, we had scarcely talked of any definite price. Instead of calling a directors' meeting, I thought it best to ask you and Mr. Philip Borden to state what settlement you would authorize, and I will confer with Mr. Waterman also. I can then inform Mr. Norris, and so I hope settle the matter.

Resp'y,

J. B. ANTHONY, *Treas'r.*

No cross-examination.

364 *Testimony of Mr. Rufus Waterman.*

I am director in the Prov. Tool Co.

Q. Had you any acquaintance with the cost of manufacturing arms before inquiries made in the summer of 1861.

A. I had not, sir.

Q. The former business of the co., had it any connexion with the gun business?

A. None at all.

Q. Did you accompany any of these gentlemen in the investigations they made on this subject after the contract was offered?

A. No, sir, I did not.

Q. What motive induced you, if any, to enter on the 24th of July into this contract for the purpose of making arms?

Mr. Bradley. We object to what were the motives of this gentleman; we think they have nothing to do with the question.

Mr. Thurston. It will be argued on the other side that these gentlemen, with their eyes open, deliberately entered into this contract for the purpose of making money. The opening counsel, when he stated his case, said, that knowing all these obstacles in the way, they went into a business which would enable them to make them at the low figure of $10 a musket. I wish to show that there were motives of a different character.

Court. It would naturally be inferred from their going into it; it would naturally be inferred that their object was to make money. If that could be rebutted, it might have some weight with the jury.

By Mr. Waterman. We thought at that time that arms would be

wanted on account of the reverses that had happened, and we thought that it would employ a great many men in Providence.

Q. Without any particular knowledge on the subject, but for the purpose of employing men?

A. Those were the reasons; that we thought there would be a demand for arms, and that would employ a great many men in Providence, although the information was not very definite.

365 Q. Did you feel any pride in this business after what had been done?

A. We thought if we could take the contract in Providence and have the business conducted there, we should like to do it.

Q. Were these motives irrespective of whatever might be the financial result of the operation—*i. e.* after what you had done you would be ashamed not to go into it?

A. I should not say that.

Q. You signed that paper? (referring to the agreement in regard to compensating Mr. Norris, which was endorsed by Mr. Waterman.)

A. Yes, sir.

Cross-examination of Mr. Rufus Waterman.

Q. When did you get your contract from government for sabres?

A. I don't recollect.

Q. Was it since the gun contract was obtained?

A. I believe it was.

Q. Cannot you fix the time, whether it was before the 17th of March or afterwards, that the correspondence and conversation occurred in this case between the parties on both sides?

A. No, sir. I recollect the conversation about it, but I don't know whether it was before or afterwards.

Q. Proposing to put it in writing—was not that the conclusion of the matter?

Witness. Do you refer to the letter from Mr. Anthony to Mr. Blake? That was the conclusion I came to at that time.

Q. Did you become apprised that the plaintiff was apprised that you had some transactions with Mr. Simmons, such as Mr. Anthony had expressed?

A. I recollect that I did not think they knew anything about it, and I recollect hearing you say (*i. e.* Mr. Bradley) that you believed such was the fact.

Q. That claim that we knew something about, it was brought to your knowledge at what time?

A. I think it was before that letter.

Re-direct.

Q. Did you have these interviews with Mr. Bradley, who
366 was representing the other side?

A. It was a formal interview.

Q. Did he assume a very mysterious air, as if he professed that something of that kind was in their possession, without stating

whether it was or was not? He did not assert that he had any knowledge on the subject?

A. I cannot remember what it was.

(Q. By Mr. Bradley.) Did not I tell you that you had paid moneys, and that entries had been made on your books in regard to it; that we could prove it, but it was a matter we could not go into?

A. It is not a matter that has crossed my mind from that time to this; you put it in the form to me of the company buying a contract of Mr. Simmons. I stated that they had not.

Mr. Bradley. I stated that they had paid him money, and that there were entries on the book relating to it.

Q. (By Mr. Thurston.) Did he say that there were entries on the book?

A. I don't recollect whether he did or did not.

Q. Did you communicate that Mr. Bradley had said to you that it was on the books at the time or not?

A. I did not.

Q. Do you believe that Mr. Bradley said anything of the kind?

A. My recollection is very imperfect.

Q. (By Mr. Payne.) At the time Mr. Blake addressed a written communication, to your knowledge, was I consulted as to whether it was best to accept the proposition, and to your knowledge was anything said to me at that time in consultation with me about any matter connected with Mr. Simmons?

A. Nothing at all.

Q. Was the answer to the communication drawn up by me, in form and substance, in my office?

A. I think it was.

Q. In the consultations which preceded with Mr. Blake, was any communication made to me?

367 A. None at all.

End of testimony of Mr. Rufus Waterman.

Testimony of Mr. Edward Pearce.

I am a stockholder in the Providence Tool Company. Was a director until the spring of 1861, when I resigned. I was in Washington in the month of July, 1861. I arrived in Washington on the 12th of July, Friday morning. It was the day before the contract was signed, whatever day that was. I arrived in Washington on the early train, and when I got out of the omnibus the first man I met was Senator Simmons. It was 8 or 9 o'clock, before breakfast. We stopped at Willard's. Mr. Simmons boarded at Willard's, and had a room on the opposite side of the street. He said he had written me a letter the night before, as he knew I was on the way to Washington. Had directed it to Edward Pearce and Tully D. Bowen. He said that we could have a contract for the Providence Tool Co., if we desired it, for making muskets. He said there had been a man there by the name of Norris, who represented himself as the agent of the Providence Tool Co. He asked me if he was the agent of

that company. I told him I did not know, but I did not think he was. I then told Mr. Simmons that after I got my breakfast I would go over to his room and see him. In the afternoon I went over to Camp Sprague, where the 1st Rhode Island regiment were located, and there upon the ground I saw Mr. Norris. He asked me if I had any influence with Senator Simmons or Anthony. I told him I thought I had. He then said, "Mr. Pearce, we can get a contract for guns for the Prov. Tool Co.," in reply to what I stated. I had previously seen Senator Simmons, and considered myself sure of the contract. The interview with Mr. Norris, at Camp Sprague, was of but few moments' duration. He was out there to look at the soldiers, and so was I. I think the next I saw of Mr. Norris was either Friday night late, or Saturday morning early. I recollect it from the circumstance that I was in bed when he came to see me. I
368 cannot recollect what was said at that interview; but the conversation was about the gun contract generally. It had not then been procured. At that time, whether it was Friday night or Saturday morning, I had understood from Mr. Simmons that he would go to the department the next day and look after it. This I understood from Mr. Simmons himself. I understood from Mr. Simmons that we were secure in the contract, and that he would see about it. Saturday morning at 11 o'clock—10 o'clock, perhap—Mr. Norris came to my room and said if we did not move in the matter we might lose the contract, and told me that Mr. Simmons was at the committee room at the Capitol. We concluded to go to see him. I went down and took a hack and rode to the Capitol. When we arrived at the Capitol, we went up to the door of the committee room where Mr. Simmons was, Mr. Norris taking the lead, being a more active man than myself. Mr. Norris spoke to the messenger and said, "Will you inform Mr. Simmons that Mr. Pearce desires to see him?" The messenger said that they had given orders not to be disturbed in the committee. At that moment a gentleman came up to go into the committee room. Mr. Norris stepped up to the man and said, "Will you inform Mr. Simmons that Mr. Pearce desires to see him?" Mr. Simmons came out immediately. I said to Mr. Simmons, "Mr. Norris says that we are in danger of losing that contract; will you go up to attend to it?" He said he would. Mr. Norris said, "We have a carriage here." He came down and got into the carriage. On the way up the avenue I told Mr. Simmons I wanted him to secure that contract; that I was not authorized to make the contract binding for the Prov. Tool Co., but I wanted him to secure it in such a way that the company would have time to investigate it and sign it if they saw fit. Previous to this, at one of the interviews, I do not recollect when, I asked Mr. Norris if he had any understanding with Mr. Anthony about services or commissions. He said that he had. This was previous to this. I said, what do you expect to get out of it?—or what understanding have you? or something like that; I can't recollect exactly; but my impression was that he had some understanding. When I arrived opposite Willard's Hotel, I asked Mr. Simmons if he desired me to go up with him, and he said "No." I got out

369 of the carriage at Willard's; left Mr. Simmons and Mr. Norris in the carriage, and they went together to the War Department. I afterwards saw Mr. Simmons and he told me the contract was obtained. The next morning (Sunday) Mr. Norris came into my room. Mr. Noyes, of Providence, who came to Washington with —— was in the room at the same time. Mr. Norris seemed to be very much elated with the idea of getting the contract. He said we were going to make a great deal of money out of it. He said that the machinery would cost $40,000 or $50,000, and that he could be of great service to the company in procuring it. I asked Mr. Norris what he expected himself to get out of this. He said that he thought he ought to have $3 a musket and a commission on $17. I told him I thought he would be very much disappointed if that was his expectation. I asked Mr. Norris if he would not tell me what his arrangements were with Mr. Anthony. He said that he had no definite arrangements. He then took out Mr. Anthony's letters to him, to show upon what he founded his claim. I considered that he founded his claim upon the letters that he had from Mr. Anthony. I told him, after reading Mr. Anthony's letters, that I could not see anything in those letters upon which he could found such a claim. I asked Mr. Norris what I was going to get out of it; he told me he would settle with me.

Q. State whether, in asking that question, you were seriously inquiring, or what was the spirit and manner?

A. I thought his claim was ridiculous, and I said it in sport. Then I said we ought to pay Mr. Simmons something.

Mr. Bradley. Did you say that in sport or earnest?

A. I expected to make Mr. Simmons a present. He had done a great deal in getting the contract for us. Mr. Norris said he would settle that also. When Mr. Norris came into the room and this conversation occurred, I was writing a letter to my wife, and during the course of this conversation Mr. Norris said to me while writing that letter, "This is all settled before this," *i. e.*, this matter of compensation.

Q. Did he refer to having written to Tully D. Bowen on the matter?

A. No, sir. He said, "You are not going to write about the matter; it is all settled before this." I do not recollect any other
370 conversation that occurred at that time.

Q. When he said he had no definite arrangement, in answer to your specific inquiry, you had no conversation as to by what principle his service was to be compensated?

A. He was to be liberally paid for his services.

Q. Did he use any expression such as, "if the contract was taken," or "if he did any good," or anything of the kind?

A. That was the idea, but no definite arrangements. That I am very positive about. Having had some previous conversation, in which he had stated that he had had an arrangement with Mr. Anthony, but had not given the detail. Up to this time I never had heard one word said by Mr. Anthony or this company about our contract for guns in Washington. Mr. Noyes was present at the whole time of this interview in my room. We roomed together.

Q. At the time you went to the Capitol, you spoke of sending in for Senator Simmons, and that in the message he used your name alone. Do you feel confident that he did not use his own name, using these words: "*Mr. Norris and* Mr. Pearce?"

A. I recollect very distinctly, and from the circumstance of having the conversation with Mr. Simmons about it. I asked Mr. Simmons if he would have gone to the Capitol for Mr. Norris.

EIGHTH DAY, *Friday, July* 18.

Testimony of Mr. Edw'd Pearce, continued.

Q. State to the jury when you first became aware that there were any relations between the agent of the Prov. Tool Co. and Mr. Simmons of a pecuniary character, in any way connected with his business as your agent.

A. It was since we have been in Newport to attend the trial of this case, and it was upon the occasion of a consultation upon the question when it should be made known in the course of the trial that Mr. Anthony had lent Mr. Simmons money, whether it should be in the opening or in the cross-examination.

371 Q. What arrangements, if any, have you made with Mr. Simmons upon this subject?

A. I think it was the Saturday evening in Washington, after the contract was obtained. I had an interview with Mr. Simmons and talked about this gun contract; talked about the value of it: *i. e.*, Mr. Simmons said to me, "If you are successful in making a good deal of money out of this contract, I shall expect you to make me a present of about 20 cents a musket." He spoke of it as a present, *i. e.*, if we were successful in making money out of it.

Q. What did you say to that?

A. I told him I was not a director in the company.

Q. As you stated yesterday you were formerly a director in the company, did you at this time give personally considerable attention by making inquiries or otherwise to ascertain whether or no this contract would, in your judgment, be suitable for this company to enter into?

Mr. Blake objected.

Mr. Payne. It is the same question that was asked by them.

Court. Certainly.

Mr. Blake. I don't know as I shall insist upon my objection if the court does not.

Q. Did you interest yourself in making inquiries as to the contract, *i. e.*, consult with persons familiar with the subject in order to ascertain the nature of the enterprise?

A. I left the Tool Co. because I wanted to avoid the trouble of it, and after this contract was made I made but very few inquiries, and had but very little communication with Mr. Anthony or the directors afterwards.

Q. Did you know anything about the gun business, whether it was profitable or otherwise? Did you make any inquiries to ascertain

whether or no it would be probable that guns could be delivered under the contract within the time named? Go as far as that.

A. I knew nothing about it. I think I saw Gen. James in Washington, and asked him what his opinion was as to whether guns could be delivered under the contract within the time named. I saw Gen. Burnside in Washington, and asked him.

372 Q. Afterwards did you or not have a conversation with the treasurer of the Tool Co. in Washington upon the point of the propriety of going into the contract or not?

A. Mr. Anthony came on to Washington the Sunday following the Sunday of the battle of Bull Run, and I saw Mr. Anthony there at that time. I told Mr. Anthony I was very doubtful about the adventure, but that so much had been said about it that I thought we had better sign the contract and take the risk of it. I had been quite doubtful about it.

Q. I want to ask you upon the point Mr. Norris spoke of particularly. Mr. Norris stated in his examination, that at the time of the interview with Mr. Noyes, yourself and himself, it was suggested by you that if the contract was not taken by the Prov. Tool Co., it would be taken by yourself, in connexion with Mr. Noyes, your friend?

A. I heard nothing of that kind.

Q. Did you say anything of that kind?

A. I said nothing of that kind.

Q. Did you have any idea of taking the contract in your own name, and associating yourself with Mr. Sam'l M. Noyes?

A. None whatever. I never said so.

Q. Something was said as to the statement made by you at that time as to the propriety of Mr. Norris going to see Tully D. Bowen to act as agent in this matter; that Mr. Anthony was not the man to do it. Did anything of that kind take place?

A. No, sir. Mr. Bowen would be the last man to take a business of that kind.

Cross-examination.

Q. Did I understand that when you went to Washington you were not at the time holding any office in the Prov. Tool Co., and were not aware that they were prosecuting this contract?

A. I had heard something about the other fact that had been spoken of, but nothing about the contract with the government.

Q. You did not go upon that business at all? What do you mean by the expression you use in your testimony, that you said to Mr.

373 Simmons you were not authorized to make a contract binding upon the Tool Co.?

A. I wanted him to arrange it in such a way that they could investigate it, and sign if they thought fit.

Q. You do not mean to imply that you had any authority to do anything?

A. No, sir; none at all.

Q. I understand you further, that immediately upon your arrival

in Washington, even while you was getting out of the omnibus, Senator Simmons was there waiting to meet you.

A. Yes, sir.

Q. That was at the hotel or depot?

A. On the sidewalk at the hotel. The omnibus backed up.

Q. He told you that Mr. Norris had been representing himself as the agent of the Tool Co., and that they could obtain a contract from the government?

A. Yes, sir.

Q. Desired an interview with you upon the subject?

A. I do not know that he did. I told him I would come and see him.

Q. At any rate, that was the result; that you would take breakfast and meet him?

A. Yes, sir.

Q. You did meet him and have a conversation on the morning of Friday?

A. On the morning of Friday.

Q. Were you on the morning of Friday endeavoring in that hotel to find Mr. Norris or not?

A. No, sir.

Q. Did you not make inquiry of the clerk of the hotel, Mr. Manton, and others, where Mr. Norris was?

A. I think not.

Q. You had no desire to meet him. Will you say that?

A. I had no desire to meet him.

Q. Then you mean to say that when you were told that morning by Mr. Simmons that Mr. Norris was there acting for the Tool Co., and would probably get a contract for them for muskets to the
374 extent of half a million of dollars, that you had no desire, and made no effort, to meet that gentleman. Do you mean to say that it is so, according to the best of your present recollection?

A. Yes, sir.

Q. In the afternoon you went out to see the soldiers. You had two sons in the reg't?

A. Yes, sir.

Q. You said Mr. Norris was out there to see the soldiers. Did you know whether he went out to see you, knowing you were there?

A. I did not. I supposed he was there to see the soldiers.

Q. Did he address you whlle you were there?

A. He looked me up.

Q. He looked you up out to the camp? Did he tell you about the contract when he looked you up?

A. He asked me if I had any influence with Senator Simmons and Senator Anthony. I told him I thought I had. He replied, "Then we can get a contract for guns."

Q. Was that the whole of the conversation, sir?

A. I do not recollect. It was but a very few moments.

Q. Do you think it is probable, upon a matter of that kind, if he had gone out there to look you up?

A. I do not know but he might have said to me that he wished I would see Mr. Simmons. I do not know that he did.

Q. Did you at any time, and if so, when, state this: That Mr. Norris was there for the company, or, rather, did you say anything to Mr. Simmons about it afterwards?

A. I told him I did not know whether he was there for the company. I had doubts about his being the agent of the company.

Q. Did you go with Mr. Norris and Mr. Simmons afterwards at his request?

A. Yes, sir.

Q. You then go on to say that the next interview you had with Mr. Norris, after the afternoon of Friday, was late on Friday night or Saturday morning?

A. I do not know but I may have seen him on Friday night
375 and Saturday morning also; my recollection is indistinct about that.

Q. On that Friday evening did he not come into your room when Mr. Norris was there?

A. As I stated yesterday, he came into my room either late Friday night or Saturday morning, I cannot recollect which.

Q. Do you not recollect that Friday evening, after Mr. Norris came in, Mr. Noyes came in?

A. I cannot recollect.

Q. Had not at that time the contract been fixed? Had you not got it in writing Friday night?

A. No, sir.

Q. Don't you recollect on that Friday evening, in the presence of Mr. Norris, saying, when talking generally about the contract, that "if the company did not take it, perhaps you and Mr. Noyes and some other gentlemen would take it, and take the lower shop; therefore talk freely before Mr. Noyes?"

A. No, sir.

Q. Do you recollect saying to Mr. Norris on that evening: "Talk freely, *freely* before Mr. Noyes; perhaps we will take the lower shop?"

A. I recollect very well making that observation to Mr. Norris: "You can talk freely before Mr. Noyes; he is my friend;" but not in connexion with the taking of the contract.

Q. Was not that remark made on Friday evening?

A. I am under the impression that remark was made Sunday morning. I think it was after the contract was signed.

Q. Do you think you were in the hotel on Friday evening at your room? Mr. Norris at the same hotel? Mr. Norris had a conversation with you, however brief a one, about this contract in the afternoon, and you did not meet in the evening?

A. I have no recollection.

Q. Can you say that you did not?

A. As I stated before, I cannot state that I did not.

Q. Now take the next morning. I will mention one other
376 circumstance. Do you recollect a suggestion of Mr. Norris

that he would take charge of the business if you took the lower shop?

A. I recollect his saying that he could be of very great assistance in procuring machinery.

Mr. Bradley. That is not an answer. Do you recollect his coming in while you were in bed? I will ask: Did he not call on Saturday morning while you were rising and dressing, and inform you that there was danger that the contract would slip through and be given to parties in Ohio?

A. He did call on Saturday morning, and stated that there was danger of the contract falling through, but I cannot recollect whether it was before I was up in the morning or not—whether it was that interview I speak of occurred that Saturday morning, or whether it was Friday night. I recollect it being in my room while I was dressing. It was either before I was dressed or after I was undressed.

Q. Was it not in the morning, and did you not take time to get breakfast and go around the hotel and see if Mr. Simmons was in the hotel?

A. I think not.

Q. When he was in your room, and you were in that situation, what was the subject of your conversation?

A. This contract.

Q. What particular reason should he come into your room for while you were dressing, unless there was an emergency?

A. I supposed Mr. Norris supposed there was an emergency; he told me at that time that there was danger of letting the contract slip out of our hands and go to Ohio.

Q. If he had told you that on Friday evening, would you and he have let the matter rest, and not have gone to see Mr. Simmons?

A. I did see Mr. Simmons Friday evening.

Q. Did you set out after this late interview when you was in bed with Mr. Noyes?

A. I do not recollect. Of course I could not.

Q. Did you tell him there was danger the contract might
377 slip out of your hands and go to Ohio?

A. No, sir.

Q. I ask you whether these suggestions do not recall the fact, that it was on the morning of Saturday that Mr. Norris came into the room before you were dreesed, and told you that danger?

A. Very well; I cannot do any more.

Q. You say he was there Saturday morning?

A. Yes, sir.

Q. What was the subject of conversation when he was there?

A. He said there was great danger of the contract falling through; that Gen. Ripley had telegraphed to Ohio to give them the contract.

Q. Did he say they had telegraphed, or had not yet telegraphed or written?

A. I understood that he had telegraphed.

Q. If he had telegraphed, and sent the offer to Ohio, how could that be stopped, if the bird had flown?

A. I am under the impression they had telegraphed some time previous. Mr. Norris had discovered that Gen. Ripley had telegraphed to Ohio, and had received no telegraph in reply.

Q. If he had telegraphed some time ago, and had received no reply, what was the imminent necessity of action just at that moment?

Mr. Pearce. I said that Mr. Norris told me there was danger.

Q. Why the danger requiring immediate action, and going to see Mr. Simmons, if a long time ago they had sent an offer and had not received an answer?

A. I should think one day was a long time for a telegraph.

Q. What did you do upon the intimation of danger?

A. I started with Mr. Norris to look for Mr. Simmons.

Q. Did you stop to take breakfast?

A. I have no recollection; do not know whether I did or not.

Q. At what time did you arrive at the Capitol?

A. I should think it was 11 o'clock.

Q. Does that aid you in deciding whether you stopped to
378 take breakfast?

A. No, sir; I was in Washington in times of great excitement, and it is pretty difficult to keep the run of time, and to fix exact dates.

Q. If you cannot keep a memory of times, or transactions, or events, what enables you to be so very certain that Mr. Norris sent to Mr. Simmons that Mr. Pearce alone wanted to see him? What reason was there for Mr. Norris omitting to send in his own name to Mr. Simmons, and calling him out in connexion with yourself? Why are you positive about that, and not of the others?

A. Because I thought that Mr. Norris considered that he had not any influence with Mr. Simmons, and that my influence was greater with him.

Q. He very naturally would give your name first; but if he had been with Mr. Simmons about this contract, and Mr. Simmons was so interested in the contract as to meet you when you got out of the omnibus, when you got out at the hotel, is it anything unnatural that Mr. Norris should send his name in with yours?

A. I do not think it is.

Q. Why are you so certain that he did not, and what has fixed that unnatural fact in your mind?

A. I had a conversation with Mr. Simmons afterwards, and Mr. Simmons said if I had not gone to the Capitol with him, he would not have gone with Mr. Norris. It was immediately afterwards.

Q. Your name did go in either case. Is it because of that conversation that you are confident, or because you recollect the circumstance at the time it took place?

A. Well, because my recollection was drawn to it so soon afterwards.

Q. Did you say you were sure of it because Mr. Simmons told you something?

A. I was going to say last night just what I said to-day, and was interrupted.

Q. You were sure of it in consequence of what Mr. Simmons told you? I understood you to say yesterday, that at some prior time to this going in the hack, in answer to your inquiry, Mr.
379 Norris told you there was an understanding about the services and commissions?

A. Yes, sir; I cannot state the language used by Mr. Norris, but Mr. Norris gave me the idea that he was the agent for Mr. Anthony.

Q. Did you not say this: I had asked Mr. Norris if he had any understanding with Mr. Anthony about services and commissions; he said that he had?

Court. Asked him about services and commissions, you say?

A. Yes, sir: "What do you expect to get out of it?"

Q. But the impression was, that there was an understanding between him and Mr. Anthony upon the question of services?

A. Yes, sir.

Q. You say prior to that, he had told you? When and where did that conversation take place?

A. I cannot tell; but it was previous to the Sunday.

Q. Take it in chronological order, before the interview at the Capitol, you had asked Mr. Norris if he had a contract with Mr. Anthony about service?

A. Yes, sir.

Q. Can't you refresh your memory, and give the time and place of that interview more distinctly to the jury?

A. No, sir; I cannot.

Q. You subsequently had another interview after you drove through Pennsylvania avenue. Mr. Norris was very earnest on that Saturday that you should go off to get Mr. Simmons; very earnest about the matter?

A. Yes, sir.

Q. Did he invite you to ride up to the hotel?

A. Yes, sir; we came out of the house, and Mr. Norris called a carriage.

Q. He went back and left you at the hotel?

A. Yes, sir.

Q. Mr. Norris and Mr. Simmons went to the War Department, did they?

A. Yes, sir.

Q. Did Mr. Norris invite you to come with him?

A. I have no recollection whether he did or not.

Q. When did you next see Mr. Norris upon this subject?
380 A. I cannot tell whether I saw him Friday night, Saturday night, or not.

Q. Did you see Mr. Simmons, or Mr. Norris, during the balance of that day or evening—Saturday?

A. Yes, sir.

Q. Which of them did you see?

A. I saw Mr. Simmons. There was not a day while I was in Washington but I saw Mr. Simmons.

Q. How long were you in Washington?

A. I think I left Washington about the 28th of July. It was after the battle of Bull Run, and one day before the R. Island regiment came from Washington.

Q. You say you cannot recollect whether you saw Mr. Norris, and he had this contract with him on that Saturday, or Saturday evening?

A. I have no recollection of seeing the contract until Sunday morning.

Q. Have you any recollection of his coming to your room on Saturday evening? Where were you on Saturday evening?

A. Probably over to Mr. Simmons's; that was the most entertaining place at that time.

Q. (Mr. Bradley reads from Mr. Pearce's direct.) "He said he ought to have $3 a musket, and a commission on $17."

A. Aye; that conversation occurred on Sunday morning; I am certain about that.

Q. Now, my inquiry is not of the time, but of the substance of the conversation. I will ask you to endeavor to refresh your recollection as to whether his statement was $3 a musket and a commission on $17, or all over $17, and if he did not get but $17 as the price of the musket, then a commission upon that?

A. I am decided about that; it was $3 a musket and a commission on $17.

Q. Was any reason given for so singular an arrangement as that?

A. The reason he gave, was the understanding with Mr. Anthony, and he showed the letters to show that understanding.

Q. If you should find that Mr. Norris wrote a letter which he referred to in his own testimony, in which he was to have $3 a musket, or all over $17, and if the contract was for $17 only he was
381 to have a commission on that, would that affect your confidence in your imperfect recollection?

A. No, sir. I saw no letter of Mr. Norris. I never saw a letter of Mr. Norris.

Q. Did you see a letter Mr. Norris addressed to you and received by Mr. Bowen from Mr. Norris?

A. I never have seen any letter from Mr. Norris to Mr. Bowen.

Q. At that time did Mr. Norris write a letter stating whether that agreement was for all over $17, and if you got but $17, a commission on that sum? If at that time he wrote a letter in that way, would it not influence your belief that that was the way he described the same transaction to you and others?

A. No, sir.

Q. Now upon another part. You say I considered that he founded the claim upon the letters that he had from Mr. Anthony?

A. That was my understanding at the time.

Q. Can you give us more definitely what the language was then used?

A. My recollection is very distinct that on Sunday morning he told me he had not any definite arrangement.

Q. Now I ask you if you can give us the language used by Mr.

Norris in that conversation that he there reports, and that he says left such impressions on his mind?

A. I do not think he can give the language used.

Q. Did he or not refer to any personal interviews with Mr. Anthony upon this subject when you were discussing the question of his compensation, and he previously told you that he had a contract for a compensation with Mr. Anthony? Did he or did he not say that there had been an interview?

A. He did not say so. I supposed that he had had interviews personally with Mr. Anthony.

Q. How did you suppose that he had had interviews if he had not said so?

A. I supposed so from what he had said to me.

Q. When you told him that you did not think the letters were anything to found such a claim upon, did he or not refer to any other letters?

A. I have no recollection whether he did or did not. I have no recollection that he did.

382 Q. I will ask you again if you supposed he had had personal interviews, should you not have asked him whether Mr. Anthony had said anything more than he had written? Would it not have been natural to speak of personal interviews?

A. He told me there was an understanding between him and Mr. Anthony towards compensation. Sunday morning I found the understanding was that Mr. Anthony was to pay him for his service.

Q. To pay him what?

A. To pay him liberally.

Q. Did he tell you that his conversation was that he should pay him liberally? Do you pretend to say that?

A. Yes, sir.

Q. And that he did not pretend to have any claim for a definite amount?

A. Yes, sir. He did speak of a definite amount, as something he ought to have in his opinion. I cannot give the language.

Q. Suppose you had been told at that time (speaking of the proposed contract with the government itself) and Mr. Simmons had told you you could have such a contract, (which, as you say, Mr. Simmons did on Friday and Mr. Norris on Friday afternoon,) if this expression should be used, "This understanding is merely oral in conversation," "that it was not fixed—not reduced to writing," would you understand or not that there was an agreement that you were to have the contract?

A. No, sir.

Q. You would not understand that there was?

A. No, sir.

Q. Then would you understand that there was no contract when it was not in writing, though agreed upon?

A. No, sir; I do not mean so. I mean that Mr. Norris had not any definite understanding.

Q. I asked how you understood at that very time that expression

if Mr. Simmons told you you could have the contract, and Mr. Norris told you the same thing also—that they had seen Mr. Cameron—that the contract with the government stood in that form, Mr.
383 Norris had said it was not fixed—it was not in writing, how would you understand that—that there was no contract at all, or that it was not in writing?

Mr. Thurston. I object to that question. We are trying to find out what took place between these parties. After failing to get any encouragement from the witness he gives an illustration and seeks *argument* to make out what he is endeavoring to establish.

Q. You do not undertake to state what Mr. Norris said about the arrangement, whether he had had interviews with Mr. Anthony or what the result of those interviews were?

A. No, sir.

Q. Do you recollect requesting Mr. Norris not to telegraph when he had obtained the contract?

A. No, sir.

Q. Did you telegraph that the contract had been obtained?

A. Yes, sir.

Q. To whom?

A. To Mr. Anthony. Sunday morning after Mr. Norris left the room I thought he meant to take advantage of Mr. Anthony, and I telegraphed to Mr. Anthony to caution him against making any agreement.

Q. Did you tell Mr. Norris not to see Mr. Anthony, but to see Mr. Bowen first?

A. I do not think I did.

Q. Do you know whether he went to the counting-room of the company or Mr. Bowen's counting-room?

A. No, sir, I do not.

Q. You recollect that at some time and place he told you he had an understanding with Mr. Anthony?

A. I cannot state the conversation—the direct terms. He gave me the idea that there was an understanding between him and Mr. Anthony in regard to his services.

Q. Did you ask Mr. Simmons what you ought to pay Mr. Norris. I do not ask for the conversation with Mr. Simmons, but I want to get at the fact. Did you ask Mr. Simmons, while you were in
384 Washington with Mr. Simmons so much, how much Mr. Norris ought to have?

A. I think I did, but I am not positive.

Q. Was that at the time when Mr. Simmons told you he should want 20 cents on each musket?

A. Some time afterwards.

Q. Were you there upon other business with Mr. Noyes?

A. No, sir.

Q. Are you a member of the Screw Company?

A. Yes, sir.

Q. Is Mr. Noyes a member of the Screw Company?

A. Yes, sir.

Q. You had no business connexion with Mr. Noyes at that time?

A. I don't recollect. Both of us are members of the Hope Iron Foundry.

Mr. Blake. Do you mean to say that part of your business was not in relation to the tariff about wood-screws?

A. Not at that time. I was there in February about that business.

Q. When did you arrive?

A. I arrived in Washington on the 12th of July; think I left about the 28th, the day after the contract was executed.

Re-direct.

Mr. Thurston. I understand you to have stated yesterday, as you do to day, that in conversation with Mr. Norris he stated that he had an understanding with Mr. Anthony. I understand you also to state that he did not inform you at that time that there was any definite understanding as to any definite amount?

A. No, sir.

Q. At a subsequent interview the same subject was referred to, and you asked him the same question? That was on Sunday morning?

A. Yes, sir.

Q. And in reply to that he produced these letters of Mr. Anthony, and stated that he ought to receive a compensation—a com-
385 mission on $17, and all over $17, and produced these letters to back him up. Did he directly or indirectly state or give you to understand that there was any contract between Mr. Anthony and himself of a definite character not expressed in these letters?

A. No, sir.

Q. You have been inquired of as to the relations which Mr. Noyes, who accompanied you to Washington, sustained towards you in a business point of view. You said he was a member with yourself of the Hope Iron Foundry. Is that a corporation?

A. Yes, sir.

Q. You own stock?

A. Yes, sir.

Q. He owns stock?

A. Yes, sir.

Q. You and Mr. Noyes possibly own stock together in some of the banks or possibly in some other corporation?

A. I think we hold stock together in the Gas Co.

Q. He has no ownership in the Providence Tool Co.?

A. No, sir.

Q. Is the Screw Co. a corporation issuing stock?

A. Yes, sir.

Q. Has it a large number of stockholders?

A. It has a very large number.

Q. You bought stock; he has bought stock?

A. Yes, sir.

Mr. Thurston. Possibly you own shares in some religious corporation?

Mr. Payne. Do you know of any good paying stock that you and Mr. Noyes have not got?

End of Mr. Pearce's testimony.

Mr. Thurston. Inquiry was made for the letter in reply to the treasurer for this department. We produce the written answer to the application.

Mr. Thurston then read the letter to Mr. Anthony in the case of Lampson, Goodnowe & Co., of J. Wise, sec'y to the commission.

386 *Testimony of Mr. Samuel M. Noyes.*

Q. Were you in Washington just before the 21st of July, when the battle of Bull Run took place?

A. Yes, sir.

Q. You have heard Mr. Pearce's statement as to that time?

A. Yes, sir.

Q. I will inquire whether there was any interview between Mr. Norris, the plaintiff, and Mr. Pearce, and yourself, at Willard's Hotel, when the subject of the contract or of the proposed contract for the Providence Tool Co. was discussed; if yea, state what was said, both questions and answers, on both sides.

A. I was in Washington, and Mr. Pearce and myself roomed together, and Mr. Norris came in twice or three times while I was present. On one of these occasions—I believe the first that I saw him—Mr. Pearce introduced him to me, and he seemed to hesitate in speaking of some busines they had together, and Mr. Pearce observed that I was a friend of his, and he might speak freely before me.

Q. On the subject of his commission or compensation?

A. On Sunday morning, somewhere about 10 o'oclock, Mr. Norris came in there, and Mr. Pearce was writing a letter at the time, and he sat down and had a very long conversation. He told him this contract for muskets—25.000 muskets—had been signed the day previous, *i. e.*, by the War Department, as I understood him, and he made some observation to the effect that "we shall make a great deal of money out of it." He seemed to be very jubilant over it. He went on to describe how he had arrived at the department with Mr. Simmons and at Gen. Ripley's, and mentioned that they had got the contract at $20 each. He expressed himself much pleased with it. Some papers were produced. Of course, I was merely a spectator, I did not see them; but I understood one of them to be a copy of the contract, in which the terms were expressed, the rate, and the time of delivery. Mr. Pearce, on looking over these, said to Mr. Norris that he did not know as the Tool Company would be willing to accept this contract, as he did not see how they could possibly get them out in the time, having no machinery, as he told him,
387 suitable. Mr. Norris expressed himself that he could do something to obviate the difficulty about machinery, I think. He argued in favor of the acceptance of it, generally, and observed, "Suppose you should not be able to deliver the first thousand,"

which was deliverable in January, "it would only be so much off your contract, as you only lose the sale of them, without any other penalty." Mr. Pearce asked Mr. Norris if he had any arrangement for his compensation; or rather the first expression was, "what he expected to make out of it." Mr. Norris rather avoided answering this question, because it was asked in the course of the conversation several times, (repeats.) Mr. Norris avoided this part of the conversation, and turned off to other parts of the subject, as the question was asked by Mr. Pearce two or three times. Mr. Pearce asked him if he had any definite arrangement there. Mr. Norris said he had not; I think on Mr. Pearce repeating the question what he expected to make out of it, then he said finally, toward the last of the conversation, that he expected to get $3 per musket. Mr. Anthony had written him some letter or something to that effect, saying that "the Tool Co. might take the contract at $17," and he expected to get the difference.

Q. Did he produce or profess to produce the correspondence that he had with Mr. Anthony?

A. He produced some papers; I saw none of them; only heard what was spoken of them.

Q. At this interview or any other between Mr. Norris and Mr. Pearce and yourself, was there any proposition made or suggestions thrown out that in the event the Tool Co. would not take this, you and he would go into it?

A. No, sir; none such decidedly. I had no business in Washington. I went on for pleasure and to see our Rhode Island soldiers. I had no business whatever, and did not seek any. If I had heard any such expression, I should certainly have corrected it.

Q. At any or one of these interviews, counting the whole of them, was there any statement to the effect that Mr. Anthony was
388 not competent to carry on this business; that Mr. Bowen was the suitable person to carry on the business, not Mr. Anthony.

A. I did not know who Mr. Anthony was at the time; was not acquainted with him.

Q. You did not know the party before?

A. No, sir.

Cross-examination.

Q. I do not understand how many interviews these gentlemen had in your presence?

A. I know there were two or three.

Q. Do you recollect on one of the earlier interviews, of Mr. Pearce asking Mr. Norris if he had any understanding about services and commissions, and he replying that he had?

A. No, sir; I do not.

Q. I will ask when certain papers—these letters—were produced, of which you spoke, whether there was any conversation between Mr. Norris and Mr. Pearce about there having been other interviews between Mr. Norris and Mr. Anthony—other agreements and conversation?

A. No, sir. I do not recollect any such.

Q. Do you recollect whether there was or not?

A. I don't recollect hearing any such at all.

Q. Was the impression left on your mind that there had been any personal interviews between Mr. Norris and Mr. Anthony, or that it lay altogether written?

A. I do not think I had the impression.

Q. You recollect the announcement of Mr. Pearce to you that the letters did not contain such a contract. Did Mr. Norris claim that the letters did?

A. I think Mr. Pearce said, "I do not see anything of the kind in those."

Q. You sat here and heard Mr. Pearce's testimony, I suppose?

A. Yes, sir.

Mr. Edward Pearce recalled.

389 Q. Do you recollect Mr. Norris in Providence calling at the machine shop, telling you something about paying money to Mr. Simmons?

A. He gave me that idea; he did not state it in those words. He said there was something in one contract that was unfortunate for us.

Q. He said there was something unfortunate in the contract?

A. He gave me the idea that he thought we had paid corrupt money to Mr. Simmons.

Q. What time was that?

A. I cannot recollect.

Q. Was it not as early as February, 1862? (No reply.)

Q. Is this the provision: "that no member of Congress shall be admitted to any share or part of this contract, or any benefit to arise therefrom?"

A. I supposed that was what he referred to.

Q. When was that—in the summer or winter?

A. I think it was earlier than February, but I am not decided about it.

Q. Was it here or in Washington?

A. It was here, walking up Dorrance street.

Q. He referred to it in what connexion, relative to compensation to himself, or how was it adverted to?

A. I went down to Nicholson's and asked him how he got along with his lawsuit. It was in that conversation that this suggestion arose.

Q. At the time of the interview in Washington, was anything said by Mr. Norris to yourself as to the price of $20 per musket? When did he first know that there was that price fixed?

A. He first knew it when he and Mr. Simmons went to get the contract—the day the contract was signed.

Mr. Thurston. That was his first intimation, he said.

Q. Did he state that was his first official knowledge of the matter?

A. I think he stated that was his first knowledge.

End of Mr. Pearce's second examination.

390 *Testimony of Mr. Tully D. Bowen.*

Q. Have you any connection with the Prov. Tool Co.?

A. I am a stockholder in the Prov. Tool Co.

Q. Are you in any way connected with Sam'l Norris, the plaintiff, by marriage or otherwise?

A. Yes, sir; we married sisters. His first wife, not his present wife.

Q. Did you have any communication by letter or otherwise relative to his compensation for services that he was rendering the Prov. Tool Co?

A. Yes, sir.

Q. Was any application at or about the time he was engaged in this business made to you for your asssistance to procure for him an office under the government of the U. S.?

A. Yes, sir.

Q. I will draw your attention in the first instance to this letter, and inquire if you received it from Sam'l Norris.

(Reads the letter.)

PROV., *July 2d*, 1861.

MY DEAR SIR: Will you permit me to ask a favor of you. It is this. I desire an appointment as paymaster, or a position equally good, and have made application for the same. I thought it might serve me to have a few of the leading names of this city, if they could be obtained. Now the favor I wish to ask is, would you be kind enough to sign such a petition, and obtain 6 or 8 signatures besides. I have written a form, which please change in any way you wish. If you could do this for me and send it to me at Willard's Hotel, Washington, I should be very thankful. I want it done in a quiet way.

I am, my dear sir, respectfully and truly yours,

SAM'L NORRIS.

P. S. I leave for Washington to-night. I am very sorry I
391 cannot see you.

To T. D. BOWEN, *Providence.*

Q. Did you receive the following letter also?

A. I received the following also. Reads:

"TULLY D. BOWEN, Esq.:

"DEAR SIR: I thank you for your kind favor of the fourth inst., and thank you for the enclosed. As to my prospects I cannot speak, for there is much uncertainty in this matter. Our R. I. regiments will probably move this week. They are the first here.

"Yours truly, SAM'L NORRIS."

Q. What enclosure was referred to?

A. It was the petition asking to be appointed paymaster in the army or navy, which I signed and sent to him agreeably to his request.

Q. This is the letter in acknowledgement of that communication?
A. Yes, sir.
Q. You received also this letter from Mr. Norris?
A. Yes, sir.

WASHINGTON, *July* 10, '61.

T. D. BOWEN, Esq., *Prov.*:

MY DEAR SIR: When last in Prov., Mr. J. B. Anthony, treas. Prov. Tool Co., said to me he w'ld be glad to obtain a contract from the gov't for the building of U. S. muskets, if the price and quantity were sufficient to warrant the outlay necessary. On my arrival here, I gave the matter instant attention, and obtained sufficient encouragement, to say the least, to warrant my writing Mr. Anthony to come on at once. I am this morning in receipt of his reply, in which he says he does not think a sufficient price can be obtained, but if it c'ld (naming his figures) it w'ld amply pay to make the necessary outlay; in other words, he would be glad for such a contract. He also
392 says he is obliged to go elsewhere, and therefore cannot come here. I have this morning written him that if a contract can be got at all the prices w'ld be all that he names. I have also given in detail the particulars of the proposal I wish to formally make, which corresponds with his statement to me in Prov., asking him to telegraph me if they can fulfil them. I have also said to him if they can do all I name it may not be necessary for him to come on, but if the thing can be accomplished I can close it if they will furnish me with a power of att'y to do so for them. I have taken the liberty of referring to you sh'ld they desire to know more of me. You are perhaps aware that I have had considerable experience in matters of a somewhat like character, and in one transaction, I refer to my contract in England, I know it has been rarely equalled. One thing is sure, I sh'ld follow the letter of my instructions, and I know give them entire satisfaction. I hope, my dear sir, you can and will do me some good with this company. If Mr. Anthony cannot come, I should be glad to see Mr. Waterman; but at any rate, as promptness is most important, I hope they will not delay action an instant. I write this fully, knowing you to be a stockholder, and that if a contract can be got it will be exceedingly profitable to y'r Co. Pardon me if I allude to another point. If the question of my compensation sh'ld be discussed, I sh'ld be glad if you c'ld secure a distinct understanding concerning it. Mr. Anthony said to me, when the number talked of was 50,000 instead of 25,000, that he w'ld pay me all I c'ld get over $15. I w'ld now like an agreement to have all I can get over $17, and if only that price can be obtained then from 50 cts. to $1 on each musket. The compensation sh'ld be large for I have been concentrating influence at the dep't for N. Y. and this place in favor of this company, besides I have devoted a good deal of time to it, and have information worth many thousands of dollars to parties applying for the contract. I shall be most thankful, my dear sir, for your earnest in my behalf in this matter.

I am resp'ly and truly yours,

SAM'L NORRIS.

WASHINGTON, *July* 11, '61.

T. D. BOWEN, Esq., *Providence:*

MY DEAR SIR: I wrote you yesterday a long letter; also, Mr. Anthony, of the Prov. Tool Co. What I now wish to say is, presuming you will be disposed *to act for me* in the matter of my compensation, I am most anxious to have it *fixed* in writing that I am to receive *all over*, say $17 per musket, and if only that price can be obtained, then 50c. or $1 each, as you can agree. If this can be fixed *now* it may save me great trouble sh'ld I succeed, for when the matter is accomplished it will be harder work to get a *good* compensation. I do not wish you to act for me in any way if y'r interests with the Co'y seem to forbid, but as I have no one else in Prov. to apply to, and believing in your *desire* to promote my interest, I express my desire freely, and hope you can fix it firmly as I have named. At $17 there will be a very large margin of profits, and they can well afford to pay liberally. Another suggestion I w'ld make, if it can be done, and that is that the agreement sh'ld read that my compensation sh'ld be upon all future contracts growing out of the first contract; that is, that if by my effort they get *one* contract and *out of it* sh'ld come others, I sh'ld be compensated for those also. Upon this point I do not wish to hold out too strongly, only it is but fair. I pray you to forgive my asking so much of you, and trust I can at some future day reciprocate the kindness you will do me as well as that you have done me.

I am, my dear sir, truly yours,

SAM'L NORRIS.

WILLIARD'S HOTEL.

P. S.—By this mail I write Mr. J. B. Anthony that from what I can learn it is not necessary for him to come on or send a power of att'y, as there is ample time allowed, after a contract is given, to carry it to Prov. for their approval and signature. This has been done, and I presume can be done again, and as I have the matter in good shape I do not think his presence w'ld help it.

Q. You received these telegrams also?

A. Yes, sir.

Telegram— "WASHINGTON, *July 13th*, 1861.

"Have my compensation fixed as named without fail if possible."

By telegram from Mystic, Ct.—"Will be at your office at 4 o'clock."

Witness. He arrived in Prov. at the time named.

Q. Were you present at the interview between Mr. Anthony and Mr. Norris?

A. They went into my back-room, and I might have gone in, but immediately left them to do their own talking.

Q. Had you had any interviews with Mr. Anthony in the meantime?

A. I think not; I never informed Mr. Anthony that Mr. Norris was corresponding with me at that time.

Q. Did you reply to any of these letters?

A. No, sir.

Q. Did you have any conversation with Mr. Norris relating to his compensation, I mean outside of these letters?

393 A. Yes, sir. It is difficult to state what they were; he talked a long time, and largely upon his services; what great things he had performed, and that he was entitled to a very big compensation, which I listened to very patiently; I cannot tell what he said in detail, it is entirely out of the question.

Q. What was the nature of your reply growing out of the conversation?

Mr. Payne. I understand that you say that he talked a long time upon his services, which you listened to very patiently.

Mr. Thurston. When was this?

A. On the day of his arrival, after he had seen Mr. Anthony.

Q. State the nature of the conversation as nearly as you are able to, between him and you.

A. The substance of his conversation was that he had been very industrious and very successful, had brought very great influence to bear, and had obtained a very valuable contract by which they could make a great deal of money, and I supposed from his talk, admitting his statements, that he had done the whole thing himself.

Q. As to his statements concerning their value, did you suppose him to be conversant with it.

A. He said it was an exceedingly valuable contract; these muskets could be made for less than $10, and went fully into the various things he said he had done; professed to be very conversant with the whole routine of the business.

Q. Did he put any estimate upon the machinery?

A. I asked him that question; he said it would require an expenditure of from 30 to 40 or from 40 to 50,000 dollars; I have it in my mind that it was somewhere about $40,000 as the requisite outlay; expenditure of money had not a very inviting prospect at that time.

Q. What was your reply upon the subject of compensation?

A. I told him if these things were as he stated, I was ready to do him as much good as I could; that a brokerage of ½ or 1 per cent. was as much as anybody could say he was entitled to; that was as much as any man could desire, but that if this contract was as

394 he had stated, that if I had any influence with the directors, not being one myself, I should be willing they should pay him a compensation of 2½ per cent. which was a full commission; I wish it distinctly understood that I took his statements as to the value of the contracts.

Q. Did you have any other information upon the subject except what came from him?

A. Nothing except what everybody gets by patiently reading the newspapers. I said wrong; he had been to me about the Austrian contract, and told what great things might be done; the Newman contract or something of that kind, a great deal of money could be made out of that, as I understood him.

Q. Was this conversation concerning the Austrian muskets from him?

A. Yes, sir.

Q. When did you first learn (as one of the parties interested in this corporation as stockholder) that any money had passed between John B. Anthony, the treasurer, and James F. Simmons, for any purpose.

A. Since I came to Newport to attend to this business; the first time I came down.

Q. State whether or not that information reached you at a consultation which you attended, or otherwise?

A. It did, sir.

Cross-examination of Mr. Tully D. Bowen.

Q We understand you to say that when Mr. Norris came back he gave you to understand that he alone had got the contract?

A. I supposed so from his conversation.

Q. I understand you to say, also, you supposed from his statements that guns could be made for some $10 or less?

A. Yes, sir.

Q. Now I understand you to say, that supposing he alone had been on the contract and it was worth that sum, (the guns were to be made for half what you were paid for them,) did you say you thought the compensation was ½ of 1 per cent.?

395 A. I said ½ of 1 per cent., which is the usual brokerage, would be as much as any man could say he ought to have, and I went on to say that if this thing was as he stated, I should advocate an exceedingly liberal payment; and I was influenced by no other motive than the direct one; I supposed that he was poor, that he was an adventurer, and I felt a sympathy for him in his misfortunes; I was willing, as far as I was concerned, if they saw fit, that the company should give him a very large compensation if they chose to do so.

Q. You received these letters, one of which says, that Mr. Anthony said to me that the number talked of was 50,000 instead of 25,000; that he would pay all he could get over $15; did you make any inquiry at that time if that was so?

A. No, sir, I did not, to the best of my knowledge and belief.

Q. When your brother-in-law asked you to have this agreement fixed in writing, did you make any effort to have it fixed?

A. Not the least.

Q. Did you promise his good mother-in-law, Mrs. Diman, of Bristol, that you would make such an effort.

A. No, sir; I wish to state further that I took no kind of interest in the letters, except to put them in my pocket or private drawer, away from the knowledge of my clerks, until I received Mr. Simmons's letter; when Mrs. Diman, my mother-in-law, came into the counting room and asked if I had any letters from Sam'l respecting the gun contract, I told her I had received a number; while I was talking, the clerk came from the post office and brought this letter from Mr.

Simmons; I opened the letter and read it, and told her I thought that looked something like ; I then began to think there was something in it ; but up to that time I paid no kind of attention to it, thinking it was all a humbug.

Q. After you thought it was all a humbug, you turned him over to Mr. Anthony?

396 A. I felt very indignant to think he had so poor an opinion of me as to think I would be a party to cheating my partners.

Q. You are not a director now?

A. No, sir.

End of testimony of Mr. Tully D. Bowen.

Testimony of Mr. .Philip D. Borden.

I am one of the directors in the Prov. Tool Co.

Q. Were you a director in the summer of last year?

A. I was.

Q. When did you first learn that a contract had been obtained for the Prov. Tool Co. ; was it the latter part of July last year?

A. I cannot state definitely the time; it was some time during the month of July.

Q. An interview has been referred to in the presence of the directors of that Co., at which Mr. Norris was present ; do you recollect that there was one?

A. I do.

Q. It has been stated by Mr. Norris that at that interview he inquired of you whether there was anything unusual in an agreement for compensation upon a contract of this character for all over a fixed sum ; you stated that it was not unusual, but a very common course; state what conversation occurred of that kind, if any?

A. I have not the least recollection of any conversation of that character.

Q. To your belief was any such statement made by you?

A. I don't believe there was.

Q. In fact, as a matter of business, is such an arrangement common?

A. It is not, so far as my experience extends.

Q. Had you any acquaintance with the business of making guns at the time this contract was obtained?

A. I had not, sir.

Q. Did you accompany Mr. Anthony and Richard Borden

397 and the oth[illegible] named, in endeavoring to ascertain something in relation to this business after the contract was obtained, to see whether you would go into it or not?

A. I did, sir.

Q. State generally what you did.

A. In company with Col. Richard Borden, Mr. Anthony, Tho's J. Borden, and Mr. Thurston, we visited Springfield, visited the armory, and made as thorough investigation of what was required as circumstances would permit; proceeded from there to Hartford, and did the same thing there at Colt's and Sharp's. Mr. Anthony and myself

went still further, to Middletown. It was all in gathering information in regard to what we could do in reference to procuring machinery, labor, &c., connected with this contract.

Q. This was soon after the contract was obtained, between the middle and the last of July?

A. It was a little after we had a copy of the contract; either the the day following or the day but one.

Q. Did you or not ascertain that the expenditure necessary to go into the business would be considerable or comparatively small?

A. We were well satisfied that it must be very heavy; so much so that it was a matter of doubt whether it was practicable for us to pursue the thing.

Q. You did not come back resolved to go into it?

A. We had not resolved when we returned to Prov. The contract was finally executed on the part of the company, as late as July, 1861.

Q. State how you came to give your consent to it, as one of the directors and managers of the company.

A. After our return to Prov., we had an interview with Mr. Howe, whom we have since employed as superintendent. After having the first interview with him, Mr. Anthony went to Washington. On his return he had a second interview, and then we decided to accept the contract.

398 Q. Had Mr. Howe, in the meantime, made some estimates or not?

A. He had.

Q. In the meantime, had the disaster at Bull Run occurred also?

A. It had.

Q. What influence, if any, had that disaster upon your acceptance of the contract?

A. As far as it regarded my opinion, it was that after the expiration of this time we might succeed in getting further work in that line, either from the gov't or the States, which might bring our machinery into use after the expiration of this time.

Q. And therefore the contract was accepted?

A. Yes, sir. I will state further that if there had been no prospect further than the present contract, confining us to those limits, I would not have accepted the contract. I hoped we might make something from that, over and above the cost of the gun. Since then, things have changed very much indeed.

Cross-examination of Mr. Philip D. Borden.

Q. You did tell Mr. Norris that it was usual in making contracts to give all over a certain sum?

A. I have no recollection of it, not the least.

Q. Do you recollect telling him that he ought to be liberally paid?

A. I do.

Testimony of Mr. Joseph P. Manton.

I am the agent of the Hope Iron Foundry.

Q. You put in a proposal for a gunboat engine with Mr. Gardner, builder of engines for gunboats; was it between a 40 and a 50,000 dollar job?

A. It was.

399 Q. I will ask whether or no, in the summer, the latter part of June, 1861, there was an arrangement between Mr. Norris and yourself, relative to his services in getting introduced into the navy of the U. S. a certain patent windlass of which you have control?

A. The first part of May, 1861, I made such an arrangement with Mr. Norris; I think that was the date, if my recollection serves me.

Q. Where was the arrangement made?

A. In Providence.

Q. Was it reduced to writing, or an oral contract?

A. It was a verbal contract.

Q. Did he go to Washington to attend to this matter?

A. I do not know that he went to Washington expressly for that. He told me he was going to Washington, or should be in Washington soon. He might have gone expressly, I don't know.

Q. You was to pay him a definite commission?

A. I agreed to pay him 10 per cent. for the number of windlasses he might succeed in selling to the Navy Department.

Q. Did you, from time to time, have correspondence with him, comprising letters showing what progress he was making?

A. I received several letters while he was in Washington.

Q. Detailing his operations?

A. I don't recollect what they contained. I presume so; I have not charged my mind with them lately.

Q. Have you got those letters?

A. I may have them.

Q. Are they where you can reach them, do you think?

A. I think I could find them; I don't state positively.

Q. Please look for those letters and produce them, that we may know what he was doing about the matter involved in this case.

Cross-examination of Mr. Joseph P. Manton.

Q. Were you in Washington on the Friday previous to the

400 battle of Bull Run?

A. I was there 10 days previous to the battle of Bull Run; that would bring it to about the 13th.

Q. Were you there when Mr. Pearce came?

A. I saw Mr. Pearce there; I don't recollect when he came.

Q. Was he making any inquiries for Mr. Norris at that time, at the hotel, or trying to find him?

A. I recollect one morning, I won't be positive whether it was Friday, Saturday, or Monday previous to the R. I. regiments leaving

Washington, I saw Mr. Pearce in the hall of Willard's Hotel. He inquired of me if I had seen Mr. Norris.

Q. Was not that the day Pearce arrived, according to the best of your recollection?

A. The regiment started previous to the battle of Bull Run, on the 16th. I was in Washington on Saturday or Monday. I won't be positive which day it was.

Q. Were you there on Friday?

A. I was in every day.

Q. Do you recollect saying on this Friday to Mr. Norris: "The Prov. Tool Company have obtained a contract?"

A. Soon after Mr. Pearce inquired of me if I had seen Mr. Norris, I saw him. I was waiting in the hall of Willard's Hotel when Mr. Norris came in. I mentioned what Mr. Pearce had inquired of me. While he was standing there, I heard that the Prov. Tool Co. had obtained the contract. I did not know by whose efforts. I said the Prov. Tool Co. have obtained a contract for muskets. He said, yes.

Q. Had the contract then been reduced to writing?

A. I don't know, sir; I inferred not from what he said.

Q. According to your best recollection, was not that on Friday?

No answer.

Q. You say you were there on business of your own, do you
401 know whether Mr. Norris was diligent in the matter of obtaining this contract?

A. I know he was busy about something, I didn't know what, sir.

End of the testimony of Mr. Joseph P. Manton.

Testimony of Mr. Albert Briggs.

Q. With what manufacturing establishment are you connected?

A. I am connected with the Franklin Foundry and Machine Co., of Prov., as agent of that co.

Q. That corporation was engaged in what description of manufacture?

A. In cotton machinery, and other kinds of machinery.

Q. Extensively or to a limited extent?

A. We employ from 2 to 300 men generally, not so many now; perhaps a 150 at the present time.

Q. Have you been engaged in building gun machinery?

A. We have, to some extent.

Q. How many years have you been connected with mechanical operations, in the capacity of superintendent or manager?

A. I cannot state definitely, but somewhere about 20 years, either as superintendent or agent. It is about eight years since I had the agency, and some 12 or 15 previous to that the superintendence of the works inside.

Q. State whether or not you have been accustomed to make estimates as to the cost of machinery, and take contracts for the manufacture of various classes of machinery.

A. I have variously in that way.

Q. You have been making gun machinery since the demand for it?

A. Yes, sir; to a small extent.

Mr. Hazard. What have you done in the way of making gun machinery?

A. We have made some machines for making gun-stocks. I don't remember as to the names applied to them here. We have 2 or 3 kinds of these machines, and we have made some milling machines. We have also made machines for boring, reaming, and also turning the barrels, and some machines for forging the parts of the
402 gun, with various kinds of machines I have not in my recollection now exactly.

Q. Do you or not feel yourself competent to make an examination into that class of machinery with a view to ascertain its cost and make estimates?

A. With due respect for modesty, I should say that I did; at all events my position has compelled me to do that in behalf of our company, and in behalf of other parties.

Q. I will inquire whether you paid any particular attention to the subject of the quantity of machinery necessary to go on with one of these gun contracts with reference to the proposed intention or projected idea, at any rate of your co.'s going into that business?

A. I did do so on two distinct propositions for 2 distinct contracts; also for a third contract that was talked about, still without a direct proposition.

Q. Do you mean 2 different contracts?

A. Yes, sir. One for 20,000 and another for 50,000 muskets of the Springfield pattern.

Q. Did you carefully examine the subject?

A. I did, as I thought.

Q. What length of time did you spend in the examination?

A. Well, I have not it in my recollection now exactly. but several weeks I was engaged in the investigation of that matter.

Q. What amount of machinery did you ascertain it would be necessary to procure, with reference to the cost, to enable your establishment to go on with that business, in addition to the machinery you then had suitable for that purpose?

A. I do not know as I can state distinctly the amount; but the amount of money, as near as I can recollect, was that we should have to lay out, in addition to what we then had, about $150,000 to prepare us to fill a contract, which was then given to us to figure upon, within the time there specified, but that time I have not distinctly now in mind.

Q. What amount of machinery had you at that time suitable to be employed for that purpose, and which you would not have to furnish?

A. I don't know as I could state that definitely, from the fact that we have a large amount of machinery. Our machine account
403 stands to us at $75,000 at the present time, but a portion of it only would apply to this business, and that with some alterations and appliances that would have to be made, therefore it would be indefinite.

Q. To the best of your judgment what amount would be made available which would tend to reduce the expenditure?

A. I cannot state definitely, but it was supposed that what we had would amount to 10 or 15,000 dollars. These estimates were made last November. We have not occasion to call them up.

Q. From your experience in the business since that time, what can you state, from your opinion, now was the truth with regard to those estimates, were they too small or too large?

A. If I am allowed to give an expression of opinion it is that they were too small.

Q. And about how much too small should you say?

A. I should not want to fix any definite sum or amount, I only feel relieved in mind that we did not enter into the contracts from the facts that I have been able to gather since, in connection with those I was in possession of at that time.

Mr. Thurston. You congratulate yourself that you did wisely. Did you make any estimate of what the gun would cost from this machinery, and if so, what result did you arrive at?

Mr. Blake objected on the ground that the witness never had made a gun, or superintended the making of one, as he himself stated.

The court sustained the objection.

Q. How many muskets were there in those lots from which you feel relieved?

A. 50,000. (?)

Q. Do you mean to say that a party situated as you were would lose money to take a contract of 50,000 muskets?

A. I say that any party who never made muskets, had they the tools given them, would lose money on one of these contracts to get them out in the time required by the government under the stipulations of the contract as then proposed.

Q. Was one of those the Shubarth contract?

404 A. Yes, sir.

End of the testimony of Mr. Albert Briggs.

Mr. Thurston. Your honor will recollect a piece of testimony offered on the other side from one of the witnesses, Marshall T. Burgess, on the Monday morning after we commenced this examination. That witness had in his hand a statement coming from the Springfield armory, certified to by the master armorer; in his testimony he said his opinion had been formed from investigations made before, and it concurred with the statement made by the Sprinfield armorer. We have objected to the statement, and it was withdrawn and referred to in the cross-examination. We stated that the objection was that it did not appear whether the cost of investment was included or not, there being an addition of 50 pr. cent. We are entirely willing that statement should go in, provided it is accompanied by the statement from the master armorer obtained in writing as well as by telegraph. We are desirous of showing that, in all these estimates at the Springfield armory, the report of Gen. Ripley is that none of these things include the investment at the armory, but only labor and materials. We are willing that the one should go in if the other does also.

The statement of the master armorer together with the telegraphic statement were allowed to go in.

Mr. Thurston then read the telegram and the letter of July 15th, 1862, from the master armorer at Springfield.

SPRINGFIELD, *July* 15, 1862.

J. B. ANTHONY, *Fillmore House*:

Interest was not included in the cost for manufacturing muskets. Letter sent this morning of the cost of investment.

19—24 E. S. ALLEN, *Master Arm'r.*

Dated SPRINGFIELD, *July* 17, 1862.

TO JOHN B. ANTHONY:

Inventory taken July, eighteen hundred and sixty-one, (1861,) the amount was the whole cost; machinery and tools were sufficient for making fifty thousand, (50,000,) muskets pr. annum, at that
405 date.

28 cal. 84 E. S. ALLEN, *Master Arm'r.*

SPRINGFIELD ARMORY, *July* 15, 1862.

J. B. ANTHONY, Esq.:

SIR: At your request I send you the present investment at this armory as taken from the inventory of 1861, viz:

For buildings, reservoirs, grounds, bridges, &c.....	$998,020 00
Tools.....	61,011 00
Machinery, machine and shop fixtures, &c.....	231,342 00
Total.....	$1,290,373 00

Yours, respectfully,

E. S. ALLEN, *Master Armorer.*

Mr. Bradley read the printed form and estimate.

Mr. Thurston put in the statement of the appropriation of the Springfield armory of 1860; also, the report of the Secretary of War, executive documents, No. 35, of expenditures and number of arms produced.

Mr. Thurston. The total production was 9,600 muskets for the year. On dividing the expenditure by the number of muskets made, the cost of each musket to the government, at the time this report was made, was about $14 25. Between this time and the one when Ripley's report was made, additions were made to the armory in respect to its capacity, and the price was reduced to $13 93, as stated in his report. As bearing upon this point of standing expenditures, I refer to Brightley's Digest of U. S. Laws, pages 51 and 52.

(A discussion here ensued on official documents, which the reporter has omitted.)

Testimony of Frederic W. Howe.

I am superintendent of the armory of the Prov. Tool Co.

Q. I wish you would state your experience in mechanical operations particularly connected with the gun business, and also those

which, though not immediately connected with, still have a bearing upon it.

A. I commenced in Nov., 1845, with Robbins, Lawrence & Co., Windsor, Vt., in the manufacture of arms, as superintendent of their armory.

Q. Before arriving at that point, state what your experience had been.

A. Previous to that time I had worked for nearly 6 years at Chelmsford, Mass., near Lowell, in the manufacture of nearly all kinds of machinery, and more particularly of machinists' tools.

Q. As a practical workman?

A. Yes, sir.

Q. Built tools by the job for 3 years? You learned your trade where?

A. At that place. I was with Robbins, Lawrence & Co.
406 for nearly 8 years. Designed, superintended, and made the drawings for nearly all their gun machinery for that time. I then left there and went to Newark, N. J.; was there partner in a stock company for the manufacture of steam engines, tools, and machinery of all descriptions, including gun tools; and from there I went to Middletown, in Jan'y, 1859. There I took a contract for making 2,000 of North's patent pistols.

Q. Was that or not where a Mr. Wheelock was connected as bookkeeper, or boy, or something?

A Mr. Savage was the owner of the establishment, and Mr. Wheelock was his son-in-law, and acted as agent, and was the party who tried several times to get me to go there before I consented to go, in connection with his father-in-law, who acted with him. From that establishment I came here to the Prov. Tool Co. I left Middletown in April, 1861; and came here in July, the same year.

Q. I will ask you about your connection with that company. It was stated by Mr. Wheelock that you were found to be too expensive by him, and incompetent to manage the business. Can you show what you did generally for that establishment?

A. I took a contract of Mr. Savage to manufacture 2,000 pistols after I had gone there to commence operations. Previous to that Mr. Savage had represented to me that the tools were made, and they had 500 parts machined. The supposition was that the small tools were nearly all that was necessary. It was represented to me that the parts were machined, that is, made by machinery as distinguished from made by hand; that the tools were sufficient to make them, and they hadn't a sufficient quantity of machinery.

Q. What did you find you got there?

A. I found the pistol was a very good pistol, but needed many improvements upon it to make it a good, practical arm. Inducements were held out to me that if I would remodel it I should have an interest in the manufacture, by which I should make 5 or 6,000 dollars a year. I found the tools were very poor.

407 Q. Did you go to work and establish it into a system?

A. I went to work and made a model pistol that could be machined in all its parts. I considered it for my interest, as well as

for others, to have an arm that could be made easily, and machined so as to be made cheap.

Q. Now, in order that we may understand what, in fact, you did for that company, show what kind of work you found when you went there, and what kind of a pistol you left there.

A. I have the parts machined, and the corresponding parts made by hand.

Q. First show the parts they had when you went there. Is or is not the work that goes to comprise a pistol capable of being machined entirely?

A. Not all of the parts that would be required.

Q. These are the specimens of the parts you made in reducing it to a system.

A. Here it requires very little labor. It goes from the machine to the polishing-wheel, almost the whole of it. These parts are all interchangeable; all uniform work.

Q. Are the parts of the other pistol interchangeable?

A. No, sir; 300 of those pistols were put together, the first made, without any labor upon them all, all except to put in the screws. The parts were complete in themselves before assembling.

Q. You then introduced, if I understand you, the system of an interchangeable arm, as applied to the manufacture of these pistols, which was not introduced before, and that is the result.

A. Yes, sir; "that" is a specimen of my work, and "this" of the pistol before I went there. "This" was more than an average of the pistol before I went there, and not interchangeable in any of its parts except ———. The specimen I now hold was one of the first lots I made for them, and the kind of pistol I left with them the same kind that has been manufactured since. In all these improvements I never received any pay, that is, for my personal labor. They never gave me any reason for my being discharged. The only reason, as I supposed, was to prevent my going and get-
408 ting the pay for what I had done. The arm has been manufactured by the same machinery, the same class of tools, and the same gauges I made for them. That enabled them to make 100 a day.

Q. I will ask you, when were you first applied to by the officers of the Prov. Tool Co. to render assistance in the enterprise in which they were about to engage?

A. July 17, 1861; nearly, or about that time.

Q. What did they request you to do, and what did you do?

A. They requested me to make an estimate of the machinery required to make a hundred guns per day, which I did for them, and submitted it to them on the 24th of July last.

Q. What estimate did you make for machinery?

A. About $150,000, not including shafting, engine, or any appurtenances of the shop and building, simply for the running machinery and small tools.

Q. Did it include any repairs or additions for fitting the building for the purpose designed?

A. No, sir.

Q. What did you estimate and inform them in figures would be the cost per musket?

A. I didn't go into any close estimate in relation to it. I told them I thought it would cost about 12 dollars, without going into any estimate. I could not tell. They wanted to know about what I thought.

Q. How long time did you say it would take to get the first out?

A. I said it would be impossible to tell how long it would take. At the least calculation they could not expect any to be made within a year.

Q. And could not give them assurance that it would be done then?

A. No, sir.

Q. Upon what prices for machinery did your calculations then and prices for labor? Upon the prices then ruling, or upon any other prices?

A. Upon the prices that formerly ruled. That was one of the reasons why I could not give them any definite answer in reference to the cost.

Q. They finally went into the business, and you went into
409 their employ. State what was done to enable this business to be successfully carried on? What was done with reference to the building?

A. We first put in a complete line of shafting and made additions to the building which we thought necessary for the work, and proceeded at once to make arrangements and contracts for the machinery.

Q. What difficulties did you encounter in the various operations necessary in order to accomplish this purpose, first with regard to getting machinery?

A. We had great difficulty in getting machinery at the time we contracted for it, and also had great difficulty in procuring skilled labor to perform the work. We had to pay extra prices for our machinery.

Q. State whether the price of labor considerably advanced from these various causes?

A. It did. It advanced nearly 25 per cent. Insome cases much more.

Q. In respect to the delivery of machinery, state how the time of delivery has corresponded with the promises made in the contracts you had entered into. Does it come anywhere near them?

A. Most of the deliveries have been from one to 2 months and some of them 6 months behind the time in which they were to have been made.

Q. Has there been in any instance a delivery on time?

A. Only 1 or 2, and those were for machines nearly complete. We bought of cotton-machine parties, and some of those which were contracted to be delivered within a week were four weeks behind time, although nearly completed when we bought them.

Q. With respect to the zeal and energy with which this matter was sought to be prosecuted, state at how many different places your contracts were made?

A. At Worcester, Windsor, Vt., Philadelphia, Providence, Pawtucket, and Hartford.

Q. What difficulties did you meet with in the procurement of skilled labor?

A. We had very great difficulty, and were delayed many months by not being able to get skilled labor—men acquainted with the business. We thought it very important and necessary.

Q. State how you got your barrel-rolls?

410 A. They came from Mr. Washburn, being the first ever made in this country. They had to be made over several times before they were correct. After they were completed, we had great difficulty in getting barrel rollers.

Q. State whether the rolls were sent back several times?

A. They were sent back 3 times. I believe each time they were put up in the shop.

Q. Were there attempts made to use them and plates of iron used up in those attempts.

A. We have nearly 2,000 barrels spoiled by rolling.

Q. How much in value of the mere plates of which the barrels were composed would be the loss?

A. $2,000 at least. Those plates are worth more than $1 apiece. That is the lowest estimate we can put upon them.

Q. Were these rolls worth anything except as old iron?

A. They were of no value.

Q. Was there in the attempt to manufacture barrels with these rolls the additional loss of labor, or was that labor lost to the workmen?

A. It was loss to us. The workmen would not take the job until they had learned to roll. We were obliged to pay them high wages while they were learning.

Q. Where did you get your operators and barrel rollers from?

A. We were obliged to take new men and teach them to do it; there being none in the country except one or two at Springfield at the time.

Q. How were they taught and by whom?

A. We had a man to superintend their operations, a man that had been accustomed to making barrels under a trip-hammer so that he knew what constituted a good barrel. All his experience was making barrels under a trip-hammer, which is a different operation from making them by rolls.

Q. He knew what a barrel was after it was done?

A. Yes, sir. He was not acquainted with making them by

411 rolls. We had men come there, stop a few days, and teach our men how to commence, and then they had to practice.

Q. Was there, to your knowledge, a single man in America that you could get who did know this business?

A. No, sir.

Q. How many were there in this country at this time?

A. I knew of but two at this time.

Q. Where were they?

A. At the Springfield armory.

Q. Two brothers were they?

A. Yes, sir.

Q. State whether they were employed all the time, night and day?

A. They were.

Q. In the endeavor to instruct these men in this particular department, were any of them sent to Springfield to enjoy the opportunity of examining the processes of manufacture?

A. They were.

Q. Did you go with them?

A. I was there one day with them. I sent men who went there, and staid a week before I went up.

Q. Were they permitted to practice on the rolls, and make barrels on the Springfield rolls while they were there?

A. They were not. They had an opportunity of looking on, and asking such questions as they thought proper.

Q. So much with regard to barrel machinery. Now with respect to the other machines which you had so much delay in the delivery, did the machines, speaking of them simply as machines, comprise all that is necessary for doing the work, or were these other additions to be made to them afterwards?

A. There were many additions to be made to them after they were delivered. In almost all cases we had to go over them and make some parts of them over.

412 Q. Before the work necessary to go into the parts of the gun could be made, what fixtures or additions, in the way of moveable machinery, had to be made in order to make those machines useful?

A. A set of fixtures for every machine required to be made for every different operation upon the gun, which is the most difficult part we have to do.

Q. In round numbers, about how many different operations are there in making a gun?

A. About 535 or 540.

Q. You have spoken of the tools, *i. e.* machines, to be used in connections with machines themselves. Had not special tools to be made in the blacksmith's department?

A. Yes, sir. We had to make a full set of tools for every operation. We had nothing in the shop when we commenced—nothing of any description. We had to make tools to make tools with, and then for every portion of the arm.

Q. Relatively, what expense must be incurred to make the fixtures necessary to produce these operations, as compared with the cost of the tools themselves?

A. I should think about $\frac{1}{6}$ of the machines to make tools. It may be more. I have not made any estimate upon that directly. It may be considerably more than that.

Q. Do you include the fixtures, *i. e.* the cost of making the fixtures?

A. Yes, sir.

Q. Has the machinery for which you have contracted, and which is necessary to make all the parts of the musket, arrived yet?

A. It has not.

Q. In relation to the machinery in the forge shops—(the writer was interrupted.)

A. There were none that were suitable for our use to make new patterns.

Q. Was that fact the same in relation to other machines than in the forage department? Do you mean to say that it was necessary that you should have a drafting department and machine tools,

413 and make machines, as well as operate on the machines themselves, and produce the work to be done, and also the pattern muskets?

A. One very important reason why, was, because parties, then making that class of machinery, asked an exhorbitant price for it, and were so much engaged that we could not get them in time.

Q. State what difficulties were in the way, and what principles you adopted, to remedy those difficulties for the purpose of making the arm interchangeable, and to correspond with that degree of exactness required with the standard model at Springfield.

A. We found it necessary in order to make a standard, our sample not being correct to make gauges corresponding with the gauges at Springfield. We tried to get liberty to have our men go into the armory to compare our gauges, but they were refused. We were then obliged to hire a room at Springfield, and place machinery in it for our men to use, and send some 5 or 6 men there to compare and rectify our gauges.

Q. How long have you pursued that business?

A. Since sometime in Feb'y. Our gauges were made at our works, so far as they could be made there safely, so as not to have any more work to do at Springfield than we could possibly help.

Q. What means were furnished you from which the gauges could be made?

A. We were allowed to take one or two gauges at a time from the armory, and return them at any time they wanted them in Springfield. Oftentimes we returned them once or twice a day, oftentimes we were obliged to go to Chicopee Falls to have them made, and send to Chicopee Falls to rectify the gauges there. We examined them as we got a chance.

Q. What did you have to take to Providence?

A. We did not have anything but a simple musket, and that not correct in any of its parts.

Q. Would it answer to make gauges, trusting to the Springfield musket pattern.

414 A. It would not; the work would not interchange.

Q. From your experience in the operation of making a gun, would it not be practicable, in your judgment, to make a musket of the Springfield pattern up to the standard required, by jobbing out the different parts of the gun in different parts of the country, and make the parts assemble together?

A. I don't think it would be possible in any reasonable time, or at any reasonable expense to do it.

Q. Explain why there is more difficulty in making parts by different contractors in different parts of the country, than there is in a factory where workmen are working within 500 feet of each other?

A. The first difficulty would be to have the gauges made uniform throughout, each contractor being obliged to make his own gauges. It would be impossible for all the men to measure alike. The next difficulty would be that the gauges are liable to wear, and not having any standard to refer to, the parts of one being made a very little smaller than of another, or the slightest variation in many different points, would prevent the work coming together when it was finished; and in case there should be anything wrong, after several thousand parts had been made, it would require a great deal of time to rectify it, and during that time many of the parts would have to be thrown away and condemned.

Q. Under one establishment like that at Springfield, or any establishment like Colt's, Sharp's, Savage's, or your own, state whether or not it is not customary and necessary to have constant watchfulness over this departure in the gauges, and see that they correspond all the time.

A. We are obliged to watch it constantly, daily, to see that all the parts are made uniform, and conformed to the standard gauges.

Q. In one establishment if any error creeps into one of the gauges, where is it certain to be detected, if not in the gauges?

A. It would be detected in the assembling.

415 Q. What is the practice there?

A. The practice is to lay it out.

Q. How about correcting the error? Is it run back to where it occurred and corrected?

A. Yes, sir; we have to trace it back to where it started, and oftentimes there is a great deal of trouble, delay, and expense in doing it.

Q. Has the Tool Company been able to deliver any muskets yet?

A. No, sir.

Q. When, according to the best of your judgment and belief, with the exercise of all the energy you have exercised, and by pushing the work in future as fast as possible, will be able to deliver any muskets?

A. I should not want to agree to deliver any in 3 months from this time.

Q. What, in your best judgment, and with the experience you have had in this business, particularly since connected with the Prov. Tool Co., will be the necessary cost upon each musket manufactured under this contract, and how will it vary from the original estimate of $12?

A. Taking into consideration the time at which they are to be delivered and the expense attending it, the lowest estimate I can put upon it is $17, nearly that in round numbers.

Q. That includes running expenses, gauges, &c.?

A. My estimate of $12 was not including any expenses, but simply the labor, stock, &c., and gauges.

Q. Does that include any wear and tear upon the machinery?

A. None whatever.

Q. So at the end of the time you will have the machinery depreciated?

A. Yes, sir.

Q. What number of muskets, if you know, will you be able, in your best judgment, to deliver under this contract?

A. I don't think it will be possible to deliver over 10,000 that will be received.

416 *Cross-examination of Frederic W. Howe.*

Q. By Mr. Hazard. You have made a remark that you got no pay for your services at Middletown. They put you out of the establishment by force when they got rid of you. What was your contract with those men, and how did you fulfil it?

A. I did not fulfil it because they took the tools from me, because they did not choose to have me go on with it.

Q. Did they not call upon you for the fulfilment of the contract?

A. The money which the contract amounted to was expended up to 1860, Jan'y. At the time when all the money was expended which the work would amount to, they called a meeting and made a proposition to me to take the tools and machinery as they then stood and pay me so much pr year to superintend the work.

Q. They took away the contract, you not having fulfilled it, and employed you by the job for wages, did they not? Did you work upon a salary, and after that they put you out of the establishment by force?

A. Yes, sir.

Q. What were you doing from April until July? You had no employment in the gun business?

A. No, sir; I had no employment until I was employed by Mr. Anthony.

Q. You say that the Co. have lost, in the single item of rolling barrels, at least 2,000. Were they rolled from the Marshall iron?

A. No, sir; it was not Marshall iron.

Q. Then those you rolled were not from Marshall iron?

A. It was not Marshall iron, a portion of it.

Q. Were you there as superintendent when these barrels were spoiled? Why did you permit that gross number to be spoiled? Was not 500 enough to be spoiled.

A. It is impossible for a man to learn to roll without spoiling barrels.

417 Q. Cannot you make barrels equally well by tilt-hammers? Can you tell a barrel welded under a trip-hammer from one made through rolls?

A. I don't know that we could; not at the same expense.

Q. How long would it take to get up an establishment by trip-hammers? Would it not be practicable in six or eight weeks?

A. No, sir.

Q. How long would it take to get the tilt-hammers underway, and the barrels in process of coming out under them?

A. I should think it would take from 3 to 4 months.

Q. Have not the Prov. Tool Co. made barrels for other parties and sold them? Have they sold to Lampson, Goodnow & Co.?

A. They have sold to Clement, Hawkes & Co. They are not making barrels outside of their contract now, sir.

Q. How many barrels do you turn out a day?

A. We are rolling from 160 to 200 day and night, two sets of men day and night running the engine expressly for it.

Q. You have to have tilt-hammers in your establishment?

A. Yes, sir.

Q. Have you two men in your establishment working under Mr. Brown, whom he has instructed, so that they are very efficient as rollers of barrels, or not?

A. They are improving every day; have not got their trade perfectly yet.

Q. About the impracticability of making the different parts of an interchangeable musket in different places. You have got the gauges made, rectified and verified?

A. No, sir; because we have not had time. We have got some of them made, nearly one set.

Q. Take two of these gauges which apply to a certain part of the lock; what is the difference between a man making a tumbler at the Prov. Tool Co. and making it out? Is the gauge any different from that in the Springfield armory?

A. If two men make different gauges there is a liability to be a difference.

418 Q. There are only two sets of model gauges?

A. I don't know that there is but one; nobody can have them to work by; they are intended to be the same; we intended to have them as near as possible.

Q. Does it make any difference where the man works?

A. If he goes on and makes 5,000 parts, and the gauge wears a little, he wants to have an opportunity to compare them.

Q. You would send them to Springfield to have them verified, and a man who was at work in Pawtucket could send them to Springfield also if he thought they wore.

A. What opportunity would a man who was making locks in Pawtucket have to see whether his gauge corresponded with the stock which was made in Philadelphia? I don't think the contractor in Pawtucket would care anything about the contractor in Phila., or have any interest to test his gauges.

Direct.

Q. You don't mean solely the comparison of the lock-gauge with the standard gauge, but a comparison of the lock-gauge with the part next contiguous to it, to see that they can be assembled, and come together correctly. You have been inquired of concerning the making of barrels with tilt-hammers; is not that system universally abandoned?

A. It is, as far as my knowledge extends.

Q. Is there a single party who is now adopting that antediluvian process?

A. No, sir; for the reason that is a more expensive and a slower operation.

Q. You were inquired of as to your conduct in allowing 2,000 barrels to be lost; was not that loss only in the man's acquiring experience?

A. Most of it was.

Q. Has there been any instance where barrels have been sold by the establishment of the Prov. Tool Co., except in the one instance you referred to?

A. No, sir.

Q. Why were they sold in that instance, if you know?

A. Because our cone-seating hammers were capable of doing only so much a day. We had to have 2,000 barrels rolled before
419 the cone-seating would be ready. We wanted to keep the men employed in rolling barrels to get ahead, and then we thought it advisable to sell a portion of the barrels.

Q. Were those barrels cone-seated at all? Which part of the establishment got established first?

A. The barrel-rollers.

Cross-examination resumed.

Q. Is it not the universal custom that if the work is not received by the inspector the man loses the work who does the job?

A. In some cases it is and in some it is not. It has been the custom within a few years past to pay them a certain pr cent.

Q. If you jobbed out 5,000 would it not be loss? It would be for the interest of the contractor to furnish gauges and see that they are right. You say there is a greater expense in making by tilt-hammers than by rolling?

A. It costs much more to weld them by tilt-hammers than by rolls.

Q. You say you are making 160 a day?

A. I say 22 hours.

Re-direct.

Q. Will the sale of the 2,000 you have named interfere with the delivery of the work under this contract?

A. No, sir.

Mr. John B. Anthony recalled.

Q. You were required to produce your books and accounts; turn to the entry you referred to and state when it was made.

A. It was made on the 21 of Nov., 1861: "Expense account to Prov. Tool Co., paid draft made at Washington on D. H. Way

$5,000." Then on the 31st Decr., just before making up our annual accounts, this $5.000 being still unpaid. "This amount
420 charged to expense account Nov. 21st, 1861, should be paid D. H. Way, New York, $5,000."

Q. State why this entry was made on the 31st of December?

A. That is the last day of the business year. The $5,000 standing in the expense account was still an asset of the company, and was reckoned in its assets on the 10th of January in order that it might be made to appear.

Q. Did the change in that entry have anything to do with the fact (whether it existed or not) that any one knew anything about that entry? You consider it an asset due still from Mr. Simmons, and therefore put where it was?

Cross-examination.

Q. Why does not Mr. Simmons' name appear on your book?

A. I did not think it belonged. The first entry was made with this view, that I hoped that Mr. Simmons would pay, and the money be paid back, and it need not appear on the books to the stockholders.

Q. Did you have any hopes when you paid this money that you would see it again? Did you not know that he had utterly refused moving in the departments in your favor until he had got this money? You say he importuned you for the money and sent his son with instructions to follow you to Rhode Island; did you not understand it was for the purpose of obtaining your contract, and that this loan was in consideration of that, that Mr. Simmons would move and get the contract?

A. I had no doubt it would influence him in endeavoring to secure the second contract.

Q. Did you not believe that Mr. Simmons would receive it as compensation without the expectation of ever repaying it again?

A. I was in hopes he would repay it.

Q. Did you not say you did not expect it would?

421 A. I did not much expect it.

Q. Explain who owed that 5,000.

A. The New York ———

Here the defendants rested their testimony.

Testimony in rebuttal on the part of the plaintiff.

Examination of Mr. Samuel Lehman (recalled.) Direct by Mr. Hazard.

Q. You have been assailed by Mr. Brown, and were not here to hear his testimony. Did you leave Newport immediately on the concluding of your testimony?

A. I left on Friday, immediately after giving my testimony, for New Haven.

Q. Did you go through Providence?

A. I did.

Q. Stop in Providence?

A. I did.

Q. You stopped until what hour?

A. I stopped there until 5 minutes before 10 o'clock.

Q. Did you take the express train for New Haven?

A. Yes, sir. I went to the Earle House and got my dinner. At 5½ o'clock I hired a carriage and told the driver to take me to the Prov. Tool Co.'s shop; he took me to the upper shop, and it appeared to be the wrong place. I wished to go to the gun
422 shop. I told him it was not the right place. He should take me to the gun shop corner of South Main. I went to the door and inquired for David Brown; inquired if he was at work there. The doorkeeper went away immediately and said he would bring him forward, which he did in a few minutes. Mr. Brown seemed to be surprised that I should be there, as I was myself that I should be here. He invited me to come in. I said I had a carriage outside. I invited him to get on his things and take a ride with me, as I had hired the carriage for an hour. He said he would. He had got his coat and would just go to tea. He got into the carriage. It happened to be in Main st. in the direction of the Earl House, at the depot. We rode together till we got to the boarding-house. He there got out and invited me to take tea with him. I declined as I had just taken dinner. He said then he would meet me at the Aldrich House, which was near the depot, handy to take the cars from. As soon as after he had got his supper he called at the Aldrich House about 8 o'clock in the evening.

Q. What took place when he came there? Where did you meet him?

A. Somewhere in the room. He came in, met me, we sat down and had a conversation about various things.

Q. I want you to relate that conversation as nearly as you can—the substance and language; what took place between you and him.

A. The conversation of course has nothing to do with this trial. It is of a private nature. A part of it, I think, has, (something to do with the trial,) i. e., that I stated to Mr. Brown that I had been to New York and had testified and made statements—took the gun, I said, and put prices on the various parts of the gun. And I believe I mentioned pretty much all the prices of all the parts. He made no objection at the time at all or at any time to the prices, that they
were too high. He mentioned two parts that he thought I
423 had rather high, as they cost less in that establishment, which are the nuts and side washers. The price he mentioned is something less than I stated.

Q. What was said between you and him—by each of you, about the barrel?

A. "Well, then," says I, "Mr. Brown, I made some statements about your favorite business," the part he was most familiar with. I asked him to say how much I was wrong, "that is, in your opinion." I told him that I had stated before this court that the iron and material of the barrel cost one dollar, which is a pound of Marshall iron, "and," said I, "I stated also that all the labor on the barrel amounted

to a little more than $1 25," which I did. He made no objection to it. Then we got into conversation about rolling the barrel. I stated that one of the counsel, meaning "that" gentleman, seemed to make a great thing of rolling the barrel. He remarked that he did not find any difficulty at all about it; that "we hired two men blacksmiths, forgers, or something," as you heard a few minutes ago stated, "and we broke them in," precisely as Mr. Howe said "we broke them in, and we paid each of those men $2 50 a day. We have, then, an assistant, whom we pay $1 50 a day, which makes $4; two helpers to each foreman, each a dollar a day, making $6 a day. They roll, each of them, 100 barrels a day and night; that makes 200 a day, in the hours mentioned, in a day and a night." "Then," says I, "the welding of the cone-seat." "Well," says he, "two men will weld on 100 a day, which we put at $4 a day," which made it cost $10 a hundred. "Then," said I, "I stated that the whole machinery, and the workmanship after the barrel was rolled, and the cone-seat welded on, was $1 25." He says, "I offered to take the barrels of this company to do for $1 25, but they acted so damn mean afterwards that I left them." I asked him where he went to then. He says, "I went to Norwick, Conn., and staid a while. They came after me, and hired me per day. I am now getting"—a certain salary which he mentioned.

Q. Was anything said about how much per centage was allowed on the barrel?

424 A. I told him I would put the barrel at $3 a piece. I made the barrel cost, according to my statement, a little over $2 25 and $2 35, and the breach screw would cost about 15 cts., which would make about $2 50.

Q. For losses on the barrel?

A. He said the losses on the barrel would not be over 8 per cent. on the Marshall iron.

Q. Did he say to you that if you had testified that barrels could be made for $3, you lied?

A. Not a word of it, sir.

Q. Did you tell him that you had had $4 a day and expenses, and "if they got their case $50 pocket money?"

A. It was about 9½ o'clock. I told Mr. Brown the cars would be along soon; I would walk toward the depot. He pointed out the Burnside establishment, and showed the ground work around the depot. He said it was done at the expense of the railroad co. Said I, "Mr. Brown, the time will soon be here to leave. I shall lose another night's sleep. Night before last I left New Haven at 11.10, and arrived at Providence, without any rest at all, and it will be pretty much so to-night," said I. "It is pretty hard service;" but I made the remark at the same time that "I get a certain sum for traveling fees and a certain sum for attendance. I stated the number of miles as 130 each way, which would be 260 miles, amounting to $13, at five cents a mile." I also stated that two days' attendance here, lost in time on the way, as I travelled in the night, made $16. "It pays me my expenses, which are traveling expenses, $7 50, and $4 a day and a little over," which it does.

Q. Did you say anything? that you expected $50 if Mr. Norris got the case?

A. I never said a word about it in the world.

Q. How came you here as a witness? Were you not called
425 by Mr. Norris, and urged to come here, and did you not decline?

A. Mr. Norris called on me the evening of the second day of this month. I was in my garden at Springfield. He said he had a favor to ask of me. I came out of the garden and took him into the sitting room, and heard what he had to say about it. He said he had a lawsuit, which I was aware of before, as he seemed to be absent from the arsenal there. After I heard his story, as I have stated, I informed Mr. Norris that I could see how it would be possible for me to go to Newport, as I had received orders to go to New Haven to inspect pistols, and as I had charge of the inspection, I could not see how it would be possible for me to go. He said he did not think there would be any objections. I said that Major Thornton's residence was at Waterville arsenal; of course, Major Dyer had nothing to do with it. He thought there would be no objection. I told him I should not consider it possible for me to go, under any circumstances, unless it was a matter of compulsion. He said, "I am going to Washington." I went down the next morning as ordered, and on Saturday, there was a man, (I saw him here a while ago,) and summoned me to appear before this court.

Q. Did you not refuse to take the fees?

A. I did; and before witnesses. He tendered the fee, and I refused it. He said, "it is tendered before witnesses, and you are obliged to come." It is the second time I ever was before a court. I came, supposing that I would be liable to some forfeiture of some kind.

Q. How long have you known David Brown?

A. There is still more I might mention. I wrote a letter on Sunday evening, and mailed it on Monday morning, directed to Samuel Norris, at Springfield, Massachusetts, informing him that I had not yet received my full instructions, and that I had just written to Major Thornton for further instructions, and I should not get those instructions in time to go, I thought. I received a despatch that same evening from a relative of his, in these words: "Springfield, July
426 7. Samuel Lehman, care of Ely Whitney. Mr. Norris undoubtedly wants you to go to Newport." I received another despatch the next day: "Springfield, July 8. Samuel Lehman, care of Ely Whitney. Mr. Norris telegraphs witnesses must be in Newport to-morrow." That telegram was directed to Ely Whitney. I did not receive it until it was too late to see Mr. Norris at the depot. Not knowing but I was compelled to go, I put out for this place.

Q. How long have you known Mr. Brown?

A. I have known him several years.

Q. Did you receive a letter informing you what Mr. Brown had said?

A. I did, sir. I have known him since he came to England; it may be eight years; it may be ten.

Q. You knew him in England several years. Were you there a part of the time during the first residence? You exchanged visits? He visited your family, did he not?

A. He visited my lodging in London, and I visited his family.

Q. Were you there when he made this second trip out?

A. I was, sir.

Q. Did you see him then?

A. I did.

Q. What was his condition of mind as to sanity?

A. I had occasion to take him from London to Liverpool, and put him on board a steamer to go to America. I was sent by a gentleman who could not go himself, in consequence of his insanity, at the request of his friends.

Q. There was something said about your qualification, &c. Did you receive any letter or testimonial?

(Mr. Thurston objected.)

Q. Did you receive an unasked voluntary contribution from the superintendent of the London armory when he left, tendered for his his acceptance in token of his regard for him, a service of silver plate?

427 *Cross-examination.*

Q. The London Armory Company were making arms under a contract for the British government at Enfield?

A. I stated so.

Q. They did not make the whole of the gun, I believe?

A. They did not quite; very near.

Q. Did they have a quantity of muskets finally to sell?

A. They did, sir.

Q. Did they have some to sell to this country. Were you the inspector who passed those arms to go to this country?

A. I was not, sir.

Q. Were you inspector to pass any muskets?

A. I was.

Q. Was this letter before, or after you inspected these muskets, for America?

A. I was loaned by the London armory to Crowningshields of Boston; he was purchasing arms.

Q. Did this service of silver plate come before or after that event?

A. It came, of course, just about the time I came away. It was after that event. I was connected with the establishment still, and at their option. I inspected the guns for Crowningshield.

Q. Had they collected a large number that would not be received by the British government?

A. They could sell their guns readily in the kingdom.

Q. Were not the parts made by the London Armory Co. worked into muskets that passed over to this country?

A. All of them.

Q. Were not a portion of these parts parts that had been rejected, and were not received by the Enfield Co.?

A. I was at Birmingham inspecting, and cannot tell what was done.

Q. Were not those parts to which I have drawn your attention, parts attempted to be made in fulfillment of the contract they
428 had with the British gov't?

A. The whole gun was made for a higher price than the British gov't was paying for them

Q. Do you mean to say that the London Armory Co. were, or were not, working under a contract for the British gov't; and were not the parts of the musket which you subsequently inspected, made with a view to the fulfillment of that contract?

A. I did not subsequently inspect any parts; I was foreman of the tool department, making tools and gauges.

Q. Do you mean to say you inspected the arm as an entirety?

A. I only inspected the parts. To inspect the whole was the business of the gov't inspector.

Q. Were not the parts that went into the muskets that Crowningshield took parts that would not pass inspection?

A. I say I don't know. I was absent after he received the guns from there.

Q. Did or did not the London Armory Co. sell guns, or parts of them to come to this country?

A. They did.

Q. Were any portions of those guns parts you passed to Mr. Crowningshield?

A. I did not inspect any guns at Birmingham.

Q. From what source did those guns come that you did inspect for Mr. Crowningshield?

A. There were none that I inspected.

Q. You did not have anything to do with the guns made by the London Armory Co. that came to this country?

A. I did not, sir. I had to do with the machinery and all the tools. It was my business to keep the tools in good condition.

Q. You don't know whether Crowningshields purchased guns.

A. I have his word for it.

Q. To what extent did he purchase?

A. I know the fact that he did purchase.

Q. Cannot you state to what extent?

429 A. Not a very great amount, because a great many of the guns of the London Armory Co. went to agents of the southern States, the confederate States, seceded States, as they are called. I did not receive $50 for anything, sir.

Q. From what other source, beside the London Armory Co., did the muskets come that you inspected for Mr. Crowningshield.

A. I stated that they were manufactured by the manufacturers of Birmingham, 19 different contractors. They had 19 distinct establishments, and the 19 contractors brought their guns into one room to be inspected. They were English contractors for the hand-made gun. They brought them into the inspecting-room where I was inspecting, and those that were good with good stamps and from

good makers I received, and those that were not I rejected. From 19 they dwindled down to about 6 or 7.

Q. Do you know whether the London Armory Co. were interested in these contracts?

A. I don't think they were.

Q. Was the party who wrote this letter Frederic M. Bond?

A. He was manager for the London Armory Co.

Q. Was he interested, that you know of, in these contracts?

A. He was stockholder in the company. How much he was interested I cannot tell.

Q. Was he not interested in the Birmingham contracts, as well as the Crowningshield contracts.

A. Not that I know of, sir.

Q. Now, upon this other subject. Did you not exhibit to Mr. Brown, Mr. Beals, and Mr. Moulton, inspectors in the service of the U. S., at this same conversation, and during the same interview upon that day, the sum of $50?

A. Not at all, sir; not to either of them.

Q. Did not you take out your pocket-book and show a $50 bill in this same connection?

430 A. I say I did not.

Q. Do you recollect any circumstance of that kind that would tend to any explanation of it?

A. I have no further explanation.

Q. You say you did not exhibit to Mr. Beals and Mr. Moulton the sum of money I have mentioned?

A. I say I did not, that I know of.

Q. Do you state distinctly, that at this interview with Mr. Brown he did not say to you, in substance, as follows: "If you stated that you made a barrel for $3, you lied, and you know it?"

A. I did not, sir.

Q. Where were you born?

A. I was born in Pennsylvania.

Testimony of Mr. Ansel E. Bradley, recalled.

I have been to Springfield armory during the present month, the 2d, 3d, and 5th days of July inst. On the second I spent 2 hours, on the 3d pretty much the whole day, and on Saturday about 5 hours.

Q. Did you see the process of inspection of arms going on?

A. I saw them inspecting some of the parts.

Q. What is the manner.

Mr. Thurston objected.

Mr. Hazzard. I propose to show by this witness, that within the present month of July he has seen inspectors going through with these operations as stated by Mr. Lehman.

A further discussion ensued, which is omitted.

Witness. I saw 2 or 3 men inspecting there; they would try the gauges on to some of the pieces, and after trying them on would examine them thoroughly with the eye, put a stamp upon them;

some of them they would take a little more than half of to put the gauges on. I saw them gauge the sear, the hammer, the rod, the spring, and I think they did some tumblers.

431 Q. Were they trying gauges on to the barrels?

A. I don't pretend to say; I spent all my time with the inspectors.

Cross-examination.

Q. Did you have any conversation with them?

A. I did, with one or two.

Q. Did you inquire of them as to the course of the examination?

A. I did; stood by and saw them examine some.

Q. How long?

A. I should think that in the arsenal building I stood all of an hour.

Q. Each piece, as fast as it passes inspection, was it stamped?

A. They would look them over, put them down, take them up, put them down and stamp them.

Q. Do you know what the work was for?

A. In the arsenal building I suppose it was for repairing—in the main shop, as they used to call it.

Q. Did you see them examine only one out of a lot in any place except the arsenal?

A. Yes, in the south filing shop, on the hill. They were inspecting the sear there.

Q. Was or was not each piece stamped at the same time?

A. Yes, sir.

Q. Did they take up some pieces they didn't inspect?

A. They took up some pieces that they didn't gauge; they didn't fit the gauges upon all of them.

Q. Each passed some sort of inspection, and some a minute inspection?

A. I suppose there was. They put on the gauges; others were carefully inspected by the eye. Some that passed did not have the gauges applied to them, but were inspected by the eye.

At this point the statement of Gov. Sprague was put in by the counsel for the plaintiff.

Facts which plaintiff in case, Norris vs. Providence Tool Company, expects to prove by Gov. Sprague.

That Gov. Sprague was in Washington in June and the early part of July, 1861, and during that period had numerous conversations with Gen'l Cameron, the Secretary of War, relative to his giving contracts to parties in Rhode Island, for the manufacture of fire-arms for the government of the United States. That in these conversations Gov. Sprague reminded the Secr'y of the promptness and efficiency with which this State had responded to the call of the government for help against the rebellion; represented to him that this

State had been injured in her business and industrial pursuits by the rebellion as much as or more than any other State; that there were responsible parties in this State who could manufacture fire-arms for the government as expeditiously and as much to the advantage of the government as any parties elsewhere could manufacture them; and that he (the governor) thought that, under the circumstances, Rhode Island was fairly entitled to a liberal share of the business of the government.

That the object of Gov. Sprague in having these conversations with Gen. Cameron was a public one, and to promote the interests of the people of the State. And altho' he referred to the Burnside Fire-arm Co., he also specially mentioned the Providence Tool Co., as one which would be able to manufacture guns for the government, and of high standing and responsibility.

That in reply to these representations and suggestions Gen. Cameron commended the conduct of Rhode Island in support of the government and laws, and said he should be willing and glad to give her citizens a liberal share of the contracts which the War Department would have occasion to make.

We will admit that Gov. Sprague would testify as above written.

ABRAHAM PAYNE,
BENJ. F. THURSTON,
Att'ys for Def't.

432 *Testimony of Thomas Warner, recalled.*

Q. Since you have testified here you have been at your home in Springfield, and at the Springfield armory?

A. I was called home by the death of my son; I went to his funeral, and while there I visited the armory, not expecting to come back to this place again.

Q. About the practicability of making barrels by tilt-hammers.

A. It has been the practice, and they have been so made for many years.

Q. Are there not many tilt-hammers out of employ at this time, and easy to be got at?

A. There are. Most every hammer man that has is employed, was employed in the Springfied armory, with the exception of 2 or 3 is out of employ.

Q. Barrels made by tilt-hammers have to be welded. Are many making barrels, to your personal knowledge?

A. There was on the 3d day of the present month, *i. e.*, Mr. Washburne, of Worcester.

Q. How long will it take to get out barrels by tilt-hammers?

A. I think it can be done in 6 weeks. I know I started hammers in New Haven when I went there, and in 6 weeks was ready to operate on the barrel.

Q. Then, if you had a contract, you think you could get barrels out in six weeks?

A. I have done it in that time, and I know I could do it now in 8 weeks. I pulled out the old hammers that were there and put in new ones, and in 6 weeks they were ready to operate.

Q. Should you or not have resorted to tilt-hammers if you had such a contract as this?

(Mr. Thurston objected.)

Q. You stated the other day that you could not distinguish a barrel made under a tilt-hammer from one made under a roller.

A. After they were finished, I think it would be impossible for any man to tell.

433 Q. From your long experience in this business, state the quality and fitness, usefulness, durability, or anything that goes to make up the excellence of the barrel, which is most valuable, the roller or the tilt-hammer?

A. I should not think there would be much difference one way or the other. The iron hammered is generally stiffer and better refined than where it is rolled, for the reason that when the roll passes over the hot iron it will generally carry in extraneous matter with it; but in hammering, when the iron is under a high heat, this extraneous matter will fly out, and thereby that on the outside does not get far into the metal. Anybody has seen that when the blacksmith hammers the iron under a high heat it becomes tough, and sparks fly out. It excludes the extraneous matter when it is hammered down to a small thing. It does refine the iron. All the best of iron and steel is made under hammers, and not under rolls. Although this Marshall iron is rolled in the last place, I suppose it is hammered. I never heard of any first-rate iron being made without it was hammered.

Q. State as to the relative expense of these two methods of making barrels for a contract of 50,000 muskets.

A. As near as I could calculate, I should think that in the forged barrel, before it goes to any other operation, there would be a saving of at least 20 cents in rolling on the barrel, after you had got into operation.

Q. Take into consideration the expense of getting machinery in rollers, after tilt-hammers, and the difference in the length of time required to get into operation, have you allowed for the extra expense which making them by rollers would occasion, and the delay of time?

A. I say that the difference, as near as I could calculate, would be about 20 cents, after the machinery was all in operation, in the barrel. I don't take into account the cost of the rolling machine, or of the tilt-hammer.

Q. Which is the most expensive as to machinery, rolling machines or tilt-hammers?

434 A. I don't know about rolling machines, for I never made an estimate upon it. I calculated from what *what* was said here, and what I saw at Springfield. I know of no estimate on a rolling machine, but heard that it was $15,000 or $16,000; but one

tilt-hammer, harness, and one plate could be put in motion for less than $500, having the power ready.

Q. Taking this company as it was, or any other company, how long time would it take to get under way with the rollers?

A. It would depend on how quick you could get your rolls. I suppose you could not get your rolling machinery nearly or one-half as quick.

Q. How large a contract should you require in order to adopt the rolling system over the tilt-hammer system? If you were going to make 25,000 muskets, which would you adopt?

A. That would depend upon circumstances. If I had to have the gun within 2 months, I should adopt hammers; if I had an ex'tion of time to 12 months, I should adopt rollers in 25,000 guns. The difference in the expense of the two would not be more than the difference in the cost of the two. There would not be much gained or lost in one or the other.

SATURDAY, *July 19th*.

Q. During your connection with the Springfield armory, were you or not in the practice of letting out portions of the work?

A. You asked me last night of my visit to the Springfield armory. Did I say that I had seen the master armorer? I went into the armory early Monday morning. I went into the different rooms where the work was being inspected; some of the rooms, but not all of them. I found them inspecting work in the same way, in the same manner that it was done in 1840 and '41 in the Springfield armory, upon the gauges which I contrived; all of those gauges—that is, the form and shape—designed by me of every single one of them. The manner of trying the main spring, the calibre of the barrel, and all those parts were determined by myself, and approved by the
435 ordnance department. Passing through the rooms, I met the master armorer, Mr. Allen. We passed the common salutation.

Counsel. You will not be permitted to state anything that Mr. Allen said to you.

Q. Practically you have been inspector of the U. S. armory. Do they apply the gauges to every piece of the musket, the requisite number of times mentioned in the ordnance manual, or not?

A. They do not, sir, in every case. If I was to inspect a barrel or have an inspector do it under my directions, I should do so myself. I should apply the gauge to every part of it, as the ordnance manual directs, but if I was to apply it to the swivel, to the band, or to the butt-plate, or to many other things, I should think it would be time lost. The calibre of the barrel is quite essential. There are points on the barrel, such as the breech, where it comes in contact with the lock-plate, the cone-seat, and the muzzle of the barrel where the bayonet is put on; those are essential points, and I should be almost absolute on some of them. But in the barrel where there is but a very little taper, why, if the gauge slips over half an inch, or falls short half an inch, I should not care.

Q. Have you been in the practice of making estimates of the cost of machinery, in the course of your connection with the Springfield armory, or with other places?

A. I used to make all the estimates when I was about to start work in different places, but I suppose I should not be competent now to make an estimate on the machinery, such as is being used in the Springfield armory, where there is a great deal of taste, and what I would term unnecessary expenditures put upon it, and as is now practiced in many places where arms are manufactured. It would take a long time for any one to go into an estimate of the machinery and tools; to go into the minutiæ of it, I should take two months to do it.

436 Q. You have heard very much of the testimony that has been given in this case, though absent part of the time. Is there any practical difficulty in the way of making the Springfield arm, by letting out the parts to different contractors?

Court. It is not competent to introduce testimony in rebuttal, except in reply to the testimony put in on part of the defence, otherwise there might be a rebutter and a surrebutter, *ad infinitum.*

Cross-examination.

Q. There is a good deal of difference between the general appearance of the machinery in regard to what you have expressed as the exhibition of taste now, from what there was years ago?

A. Yes. But I consider it entirely unnecessary. All I should ask of the machine would be, to do its work, and do it right. I would not say that I would not have a thing done up in a decent manner.

Q. Well, it is true, is it not, that the fashions have prevailed in machinery, as well as in bonnets, and a tendency to expenditure in construction?

A. And to too great an extent in my opinion, too.

Q. When you speak of the display of taste in machines, and the peculiarities which constitute this distinction from former machines in use, do you refer particularly to the height of finish which machines receive compared to what they used to? Are all the parts of machines now, as compared with former machines, a year ago, receiving a degree of finish which is expensive, and which is not absolutely essential?

A. I say the machines are finished more, more expense laid out on them than is necessary.

Q. This expense is the finish?

A. Yes, the extra expense—what they should not cost is in the finish.

Q. You spoke yesterday of the process of making barrels by tilt-hammers, as distinguished from making them by means of rolls.

437 I will ask you whether or not the system of making barrels by tilt-hammers has not been universally abandoned, with the single exception in your knowledge, to which you referred yesterday, i. e., by Mr. Washburne?

A. So far as my knowledge goes, it is, but perhaps I could give you my reasons why, whether satisfactory or not.

Q. Now there are many contractors and parties engaged in making barrels, and you know of only one instance in which tilt-hammers are employed. I will ask you about Mr. Washburne's establishment at Worcester, and about its proprietor?

A. I am very well acquainted with Mr. Washburne, *i. e.*, my acquaintance has not been more than a year and a half. I have seen him a great many times. He came to me about making 50,000 barrels; he wanted me to make them, but finally abandoned the idea.

Q. Then perhaps you are sufficiently acquainted with Mr. Washburne to answer some of the questions I will put. Has he not a pair of rolls and is he not making barrels by the rolling process?

A. I did not see any being made when I was there on the 3d day of July, of the present year, If they were making them I should hardly think they would have escaped my notice; but I could not say but that there were rolls in there for that purpose.

Q. Will you say, or have you any doubt upon the subject, that Mr. Washburne has four sets of rolls in that establishment?

A. I have not much doubt of it, because I saw barrels in his office that were rolled, but I did not see them in operation.

Q. This was on the 3d of July. Was not his concern stopped in view of the 4th of July being the next day. Was his whole establishment in operation?

A. I could not say that the whole was, but a great part of it was.

Q. Do you know, as a matter of fact, whether the rolls were stopped for want of iron to make barrels?

A. I do not, sir.

438 Q. Can you further state whether Mr. Washburne has been for some time, and is now, engaged in experiments, trying to manufacture a description of iron which shall take the place of the Marshall iron, to be made into barrels for guns?

A. Yes, sir, I am aware that he has tried, for he has told me so. I have examined his iron at the Springfield armory a great many times; I have been there. At first when he first commenced, it was supposed in the Springfield armory that he had obtained iron, and made as good barrels as the Marshall iron. It was so reported. I saw it.

Q. He took out these contracts on the idea that he had done it.

A. Yes, sir.

Q. It all turned out a mistake?

A. I believe the iron did not prove as good as they expected at first, but notwithstanding I think it was better than the iron which they had used previously.

Q. Not better than the Marshall iron?

A. Oh! No.

Q. Let me get at the fact, irrespective of your opinion. Is it not the fact, although Mr. Washburne thought he had succeeded, and had made contracts in consequence of that belief, yet, in fact, Mr. Washburne is not himself now using any of that iron in making barrels, and

it has turned out unsuccessful. Now I wish to know, coming directly from that, whether the tilt-hammers that Mr. Washburne is now using in his establishment are not tilt-hammers for the purpose of experimenting with the various descriptions and grades of iron which he is seeking to make, using the trip-hammer for the purpose of purifying the plates by percussion?

A. I could not tell you about that, but from the conversation I had with Mr. Washburne respecting those barrels, think that they were being welded with hammers.

Mr. Blake objected.

Mr. Thurston. It so happens that there are intimate rela-
439 tions between Mr. Washburne and the Prov. Tool Co., and we happen to know precisely what the fact is, but I am not anxious to have any unnecessary discussion, or go into any piece of evidence that does not bear upon the question. I wanted to know if he was not making experiments for producing iron for barrels—they are cast in a cylindrical form, in a manner to be placed under the operation of the rolls. Do you know what he was using the tilt-hammers for?

A. I know that he was using them for welding barrels.

Q. Was he making the entire barrel or only reducing the size of the cylinder which was subsequently to be put into the rolls?

A. I concluded by the appearance of things that they were making the entire barrel.

Q. Where they drawing it out in the usual way?

A. Two tilt-hammers were at work.

Q. How many will that make in a day?

A. They will make 50 in 10 hours, 60 perhaps. I have known a hammer to weld 40 and even 45 in 10 hours.

Q. You don't know the number of barrels per day in Mr. Washburne's establishment. You have spoken also upon the comparative economy of rolls and tilt-hammers, and given your opinion upon that. You stated that you did not know yourself the expense for rolls.

A. I never had made any estimate, only what I got from rumor at the time the rolls were introduced. Gen. Whitney was at that time superintendent, I went to his house and got information.

Q. Does a pair of rolls cost more than 4,000 dollars or not?

A. I should think that rolling mills and rolls would cost a great deal more, $20,000 to $25,000, altogether if you were to build a new rolling mill in a perfect manner; not that the rolls would cost that or $\frac{1}{2}$ or $\frac{1}{4}$ of it.

Q. You think that tilt-hammers could be put in complete for $500. How many tilt-hammers would it take to work out 100 barrels a day?

A. It would take as many more tilt-hammers as 250 divided into that number.

440 Q. That would require 8 tilt-hammers would it not?

A. 2 tilt-hammers make 50 in ten hours, and a rolling mill makes a hundred in 10 hours, the usual time of working; the rolling mill produces a hundred in the same time that 4 tilt-hammers would.

It would take 4 tilt-hammers to do as much work as a single rolling mill.

Q. Those four would cost at least $2,000 for the machines?

A. Well, they might; I put the estimate as high as I thought it ought to be. We will call it $2,000, if you please.

Q. We will not discuss the cost of a pair of rolls, or how much additional labor will be required to tend 4 tilt-hammers over what would be required to tend a pair of rolls?

A. I should want some time to think of that to give a correct answer.

Q. Cannot you state the number of men required to tend a pair of rolls. Is it more than two or not?

A. It is more than 2; I think it must be about 5. I could not say positively.

Q. Can you state without much trouble how many men it would take to attend 4 tilt-hammers of which you have spoken?

A. It would take 8 to attend the 4, two to each.

Q. Including the firemen?

A. It includes the helper and fireman to weld a barrel.

Q. Then there would be nearly double the amount of labor; can you state the comparative expenditure of fuel?

A. I should judge that there could not be a great deal of difference. It might be in favor of rolling the barrel.

Q. From your consideration of the subject and the extent of information you have acquired, taking into view that you have been told what the price of the rolls was and putting that at $15,000?

A. I said the rolling mill complete, beginning from the foundation; I did not state that I knew or thought anything about what the price of the rolls was except that I had heard it stated here.

Q. Did you take the estimate at $16,000, and from that computation find the price of the rolls?

441 A. No. I took the whole rolling mill into consideration. I mean the building and rolls and everything pertaining to it.

Q. That estimate you put at $25,000. Now you, on that estimate, calculate that the economy, after the establishment was started, in rolling barrels over the tilt-hammer process would be 20 per cent. to a barrel?

A. Yes, sir, that was my opinion.

Re-direct.

Q. What is the mode of reckoning expenditure at the Springfield armory. Is the estimate upon the cost of the establishment?

Mr. Thurston objected.

Mr. Bradley. You have put in testimony of the amount of the gov't expenditures at Springfield, aggregated through the whole part up to the present time. I wish to show you that there are dams, houses, grounds, superintendents and other officers, all of which goes to expand the U. S. estimate.

Mr. Thurston. That is just as much the cost of a musket as anything else. The superintendent has his rent and salary beside. It is part of the capital, I suppose?

Mr. Bradley. It is no more necessary to have them than to have a marble palace to hold a court in.

442 *Rebutting testimony.*

Mr. Samuel Norris recalled.

Q. By Mr. Bradley. There has been some testimony from Mr. Anthony in regard to the Newman contract, concerning which nothing was said in our direct testimony, please state what the fact about that matter was?

A. The fact concerning that Newman contract was thus: Mr. George F. Foster told me there was such a contract to be given out in this country, and told me that he hoped to get up a large concern in Providence. I recommended his going to see the Prov. Tool Co. I did not know anything about the contract. He told me at another interview in whose hands the contract was, named Wm. H. Newman and Co., of New York; I said at once I know them very well, I met them in Europe, and if I can serve you in the matter I will be very happy to. He said, "If you will get the contract I will give you 50 cents a musket, if I have anything to do with it, or you shall get 50 cents a musket, or something of that sort." I think I went to New York that night, called upon Newman & Co., went on purpose when I did go, and I think it was that night; Mr. Foster had been in the mean time; he told me he had been entirely unsuccessful, and wanted me to undertake it. I called upon Newman & Co., and stated my business, and they told me they should be very glad to have an estimate made by me or my friends. I asked them for the musket; they said it was in Providence. It was an estimate for the building of 100,000 muskets; how much they were to pay for it; 100,000 was the number. I asked them for an order for the musket. They gave me such an order on Gov. Jackson, for the sample musket. I obtained the sample musket and with Mr. Foster went to the Prov. Tool Co. I met Mr. Anthony there and talked the matter over. I saw Mr.
443 Anthony several times concerning it.

Q. Did Mr. Anthony express any disinclination to confer with you, and to get all the information he could out of you?

A. He certainly expressed no disinclination to confer with me, and certainly got all the information he could out of me, which I freely gave. I went to New York several times concerning it. Newman & Co. were constantly expecting advices from abroad empowering them to give out the contract. I heard from some source that Mr. Anthony had been to see Messrs. Newman & Co., twice I think it was, and I was surprised that he should interfere in the matter, or feared that he was going to interfere. I went to Newman & Co. and said, or to Mr. Myers—

(Mr. Thurston objected.)

Mr. Blake. Mr. Anthony stated that he did not want to have any concern with Mr. Norris. We only want to show the truth about that fact. I don't want to go into details, but simply to show that Mr. Anthony was willing to have connection with Mr. Norris. Mr. Anthony states that he discredited entirely the service of Mr. Norris in this matter. That was his statement. I think it was not that he wanted to have nothing to do with this man, but to save the commissions. Now I want to show that the other side recognized him as an agent and should pay him the commission. If a broker commences his bargain they cannot run round and go back of it.

Witness. I asked Newman or Myers—said, "I want it distinctly understood that I am the negotiator for this contract." And he said, "Oh, certainly," or to that effect recognized me as a party between the Prov. Tool Co. and them.

Q. Who is Mr. Myers?

A. Mr. Myers is a very rich Vienna banker.

Q. Is he the man that has a villa in this city?

A. Yes, sir; he lives also on Staten Island.

Q. Was he connected with the Newman Co.?

A. He was brother-in-law of Mr. Newman and was the party
444 there to whom the contract came, as I supposed.

Q. Did the Tool Co. make any contract?

A. They did not, sir.

Q. Do you recollect what price was offered by the Tool Co.?

A. The price talked of—not offered—was $11 75. Various prices were talked of, $12, $11 75, that was about the price talked of. They were not prepared to receive a formal proposition.

Q. Mr. Gardner has been asked about a hasty conversation in the street which he did not recollect much about. What did you tell him at that time?

(The court objected.)

Mr. Bradley. Mr. Norris said nothing in his direct testimony about the conversation with Mr. Gardner. They have put on Mr. Gardner to say what Mr. Norris has said at the same time. It is our clear right that he should say what he said to Mr. Gardner in the street, as he was getting into the carriage.

A. I told him that I had obtained a contract, but I did not state for whom, because I told him it would come out and I did not want to make a statement of my own. I wanted the knowledge to come from the Tool Co.

Q. That was your communication to him that afternoon?

A. That was after I left Mr. Bowen's counting-room, and going to the Bristol depot, the same afternoon. I think he got out of his carriage. He stopped his carriage for me.

Q. Now, with regard to some statement of Mr. Pearce, Mr. Pearce says he did not seek you on the morning of the Friday he arrived in Washington. I ask you upon that point.

A. Mr. Manton told me he was looking for me Friday morning, and I don't know but the clerk of the hotel told me also, but I went

be certain about that. But Mr. Manton told me that Mr. Pearce had arrived from Providence and wanted to see me.

Q. Why did you not give him a meeting?

445 A. Because I had an appointment with Gen. Ripley at 9 o'clock, and I knew he could not assist me in the matter, and I should not be aided in any way.

Q. Now, as to the afternoon? Mr. Pearce says he supposed you went out to see the soldiers.

A. I went out on purpose to see Mr. Pearce.

Q. Did you hunt him up there, as he said?

A. I did search a long time to find him.

Q. How long an interview did you have? He says 2 or 3 minutes.

A. I stayed 15 minutes to half an hour.

Q. What did you tell him?

A. I told him every transaction up to that moment.

Q. He says all you said to him was to ask whether he had influence with Senators Simmons or Anthony. Did you ask him any such question?

A. I did not.

Q. Had Senators Simmons and Anthony already complied with your request?

A. They had done all that I required.

Q. You say the senators had done all that you requested. Did you at that time anticipate any further occasion for their services in this contract?

A. I did not.

Q. Did you at any time afterward call for their services, except on the announcement, the following morning, of this change in the direction of the order of the Secretary?

A. That was the occasion and the only occasion.

Q. Was the conversation on that Friday afternoon when you went out there for that purpose, as Mr. Pearce has stated, or not?

A. It was different, sir, very different.

Q. On the evening of Friday Mr. Pearce is unable to state whether he saw you or not. I will ask you what the fact was?

A. At the camping ground that afternoon Mr. Pearce asked me to come to his room at the hotel, which I did that evening—Friday evening.

Q. State generally what the subject of conversation was.

A. We were talking about the gun contract. In a portion

446 of the conversation Mr. Noyes came in; I had known him in a business way before, he being in Cuba and I having been in that business. He told me to talk freely before Mr. Noyes, as he was his friend, and as he might desire him to take hold with him and others in the event of the Providence Tool Co. not taking the contract, and then talked about the lower shop and its adaptation to the business.

Q. Mr. Pearce says he cannot recollect whether it was late Friday night or early Saturday morning that you called him out of bed. I will ask you when it was—what hour?

A. It was about 9½ o'clock Saturday morning. He was in his drawers. I was at Gen. Ripley's office promptly. As soon as I got through with the interview I ran down to the hotel.

Q. What was your occasion of going?

A. Because Gen. Ripley had told me the contract was going to Ohio, and I was very much alarmed.

Q. Mr. Pearce is unable to recollect whether he stopped to take breakfast before they went off to see Mr. Simmons?

A. He did stop to get breakfast. I felt very badly that he should delay for such an unimportant matter in so important a transaction as I was engaged in.

Q. You recollect it because of that circumstance?

A. Oh, yes, perfectly.

Q. State what occurred between you and Mr. Pearce and Mr. Simmons.

Counsel. I do not know as it is necessary to repeat that, your honor; that is a difference of recollection, which must go the jury.

Q. Now, when did you next have an interview; did you that evening?

A. That afternoon, after the contract had been obtained, I addressed a line to him upon a card and left it in his box, as he was not there. Then that evening I called again for him at his room. There we had a long talk about the contract.

Q. Now, Mr. Pearce states that you did tell him, though he cannot recollect when or where or under what circumstances, that
447 you told him that you had an understanding with Mr. Anthony about your compensation for services. Did you tell him that you had such a conversation?

A. I did. In that he is correct.

Q. He also says that your claim was for $3 a musket all over $17, and a commission on $17 besides. What did you tell him was your claim?

Mr. Thurston. We have had that once before when the witness was first examined. This is not in contradiction of anything in the defence.

Mr. Blake. For the first time this idea is brought out that he claimed this commission in addition to the $17.

Mr. Thurston. He stated the whole of it, and read the letter in which that allegation is made to Mr. Bowen.

Court. That is in his original statement. He don't state in his original statement that he claimed $3 and a commission on the $17 besides.

Mr. Bradley. Please state what it was in that regard merely.

A. My agreement was that I should have all over $17, and if I only got $17, then I should have a good round commission on the $17.

Q. When did you show the correspondence from Mr. Anthony?

A. That very evening; and the next morning a letter that was received. Sunday morning, I also showed him.

Q. What letter was that?

A. The letter of Friday, I think; of the 12th, at any rate. It had just time to get there. As soon as it came I showed it to Mr. Pearce, as I showed him everything connected with it.

Q. For what purpose did you show Mr. Pearce the correspondence?

A. To allow him to be apprised of all the transactions, clear through everything, as a party interested in the matter.

Q. Mr. Pearce says that his understanding was that you showed him those letters as the ground of your claim for compensation. What is the fact?

A. I did not show him those letters to show him the bargain, for there was no bargain in it. I only showed the letters to show him the whole transaction while I was telling the story.

Q. Mr. Pearce also says that his impression is that you had
448 had personal interviews with Mr. Anthony, but he cannot recollect at all what account you gave of those interviews. Please state what account you did give. I do not ask you to repeat?

A. I stated to him my bargain with Mr. Anthony. I did not intend to give him any other impression than that.

Q. Did you give him an account of personal interviews with him?

A. I did; I gave him the whole story.

Q. Well, Mr. Pearce says you told him there was an understanding between you and Mr. Anthony about compensation for services, and also says you told him there was no definite agreement. What did you say in that regard?

A. I did not intend to convey such an impression to his mind, because there was a definite agreement.

Mr. Thurston. You will acknowledge that I put each one of those questions to him?

Court. I suppose you have a right to recall his attention.

Witness. I stated the bargain, that it was definite. I gave him the statement of the $15 precisely and exactly, and then the statement about the $17; that was the distinct understanding that I should have all over $17, though not expressed in words as the $15 was.

Q. A single question about that. Did you give the same account, according to the best of your recollection and belief, to him that you gave to the directors a day or two afterwards that you gave on the stand?

A. I did, sir; I gave him the whole story.

Q. Now, for another subject that was introduced as to this matter of compensating Mr. Pearce for obtaining the contract. What had he done, except go up in the carriage with Mr. Simmons that morning?

A. He had done nothing?

Q. What did you reply?

A. I replied very ironically, I will settle with you, or something to that effect.

Q. Then he says he asked at the same time what you would do with Mr. Simmons. What was your answer to that?

A. I made some such remark as that I would attend, some
449 passing remark, lightly said.

Q. Did you ever give Senator Simmons any money for obtaining this contract?

A. I never did.

Q. Did he ever ask of you any pay for his services?

Q. When did you first learn that the defendants had given him bribery money for contracts?

A. That is what Mr. Shubarth told me Mr. Simmons told him. I heard that, I think, in January.

Q. How did you learn it, and what was the statement made to you?

A. Mr. Simmons told Mr. Shubarth that he was to have 50 cents per musket upon this contract, as there was a young man in Rhode Island who thought he ought to have some, and a dollar on the second one. That was the first I heard of that. That he was fitting out the "Charity" and "wanted means," and Mr. Shubarth said, he found he was satisfied. He understood that he got all he wanted. This is what is reported to me by Mr. Shubarth: He was fitting out the Charity, and he got satisfied at the office, or something to that effect.

Court. This was in January.

A. Yes, sir, in January.

Q. You had other sources of information?

A. The clerk of the Prov. Tool Co. told me so.

Q. When was that?

A. I think that, sir, was the latter part of January, or the first of February. I would not speak with certainty.

Q. Did you inform your counsel of your information in the matter.

A. I did, sir; and they, at my request, informed the directors of the company. They told me so. I was in one room, and the interview with one of the directors was in another room.

Mr. Bradley. They sent that message to them, and then came back and reported that the message was communicated.

450 A. Exactly so.

Q. Now, with regard to these letters you wrote to Mr. Bowen. Please state what the effect of the contract was, and what the contract was?

Court. He has already stated all he could say on that subject.

Counsel. It is strange you should allow him to put a different interpretation upon the letters than their face. Why examine them at all?

Mr. Bradley. It was Mr. Anthony's habit to state what he said, and then what he understood again. We want to ask the witness why he wrote them; what his purpose was, and whether they harmonize with that purpose?

Q. Please state what was the purpose of these letters, and this telegraph?

A. To have my bargain—my contract with Mr. Anthony fixed, and fixed in writing. I had no other object certainly. One letter is written on one day, and the other on the morning of the next day.

Q. Your telegram is on the following day. When you say, "Have my compensation fixed as named," what did you refer to?

A. I referred to my statement to Mr. Bowen in the letters; that was my intention.

Mr. Bradley. And the difference between your arrangement about about $15 and $17 you have already stated.

Rebutting testimony continued.

Cross-examination of Mr. Samuel Norris.

Q. When you went out to Camp Sprague on the morning that you have named, you went for the purpose of seeing Mr. Pearce, you say?

A. Yes, sir.

Q. What was your object in going to see him?

A. I felt it my duty to report to him, at that time, the pro-
451 gress of the whole matter.

Q. You stated that you did not inquire of Mr. Pearce if he had influence with the senators, and had no reason so to do, because they had done all that you desired?

A. Yes, sir.

Q. Did you have any doubts about the contract issuing then?

A. I could not tell up to that time. I had used them all I expected to.

Q. Had you or not any reason to doubt that the contract would issue at that time?

A. I was anxious about it until I got the paper in my hand, and I was taking step by step. The next step was to see Gen. Ripley.

Q. There is a difference between doubt and anxiety, and you understand that difference, I suppose. Did you have any doubt at that time as to the contract issuing.

A. I expected the contract would issue, though I was anxious about it, and of course doubtful, until it was fixed.

Q. Had your interview with Mr. Pearce (going out to Camp Sprague to see him) anything to do whatever with any influence that he was to exert upon the senators, or any step he was to take, directly or indirectly?

A. No, sir, not in the slightest degree.

Q. Your appointment to Gen. Ripley, that you spoke of on that morning, was to go to see simply whether he had seen the Secretary, was it not?

A. It was to go and find the result of his interview with the Secretary.

Q. It was therefore strictly an appointment, was it?

A. Yes, sir, it was strictly an appointment. He said, come to-morrow morning, (Thursday.) I did go Friday morning. I went again and again, and still he was not able to report to me—not able to tell the result because he had not seen the Secretary. I knew he had seen the Secretary Friday afternoon and Saturday morning, be-
cause I saw Gen. Ripley go to Secretary Cameron's office. I
452 was standing in the Navy Department, looking out.

Q. You know on what morning that he had seen the Secretary?

A. Saturday morning. I knew that he had seen the Secretary the evening before; because, on the evening before, I had seen, as I stood looking out of the Navy Department, Gen. Ripley go to Mr. Cameron's office. I know from the messenger at Mr. Cameron's office that Mr. Cameron had sent for Gen. Ripley.

Q. What time in January, to the best of your recollection, as you are now able to fix it, did Mr. Shubarth tell you that Mr. Simmons had told him that there was money in this business?

A. I cannot tell, sir; I cannot say positively that it was in January, it was about January.

Q. Might it not have been in February.

A. I do not think so. No, sir, I think it was December or January; I do not think it was February, because this correspondence places February clearly in my mind as not being the time. I think I knew it all before then.

Q. You say some time in February a clerk in the office of the Tool Company told you also. What did he state to you?

A. We were walking down street from the upper works of the company; I said to the clerk, "It is too bad that they will pay Simmons and will not pay me?" And he said, "Yes." And I said, "They have actually paid him money, have they not?" And he said, "Yes." I said, "Did they pay him cash or notes?" He said, "Cash." Said I, "Is it charged upon the books?" He said, "Yes, it is."

Q. Who was the clerk?

A. Mr. Hunt, I think his name is. I am not familiar with their names, but I think it is Hunt.

Q. Did you go immediately after and state this matter to your counsel?

A. I did, sir. I took a carriage and drove to Mr. Bradley's house.

Q. This was in February?

A. I think it was. It was in winter; Mr. Bradley's steps
453 were very much iced, indeed.

Q. Was this the first time you had communicated to the counsel?

A. It was the first time I had communicated this information. I told him about Shubarth immediately. I think I wrote him.

Q. Did you not, in view of the information you had got from Mr. Shubarth, proceed to Washington for the purpose of making complaint before the committee of Congress, as to the conduct of Mr. Simmons, at one time?

A. No, sir; I did not at one time.

Q. Did you procure a letter from Mr. Shubarth in which his relations with Mr. Simmons were stated?

A. I did, sir.

Q. Did you exhibit it in person at Washington?

A. I did, sir, to Judge Holt and to Major Hagner.

Q. They were members of the commission?

A. They were.

Q. What was the circumstance from which the subsequent investigation proceeded.

A. They told me they had heard of it a great many times.

Q. Did not that start the ball against Mr. Simmons and accomplish his ruin?

A. I suppose it was the first positive proof of his corruption.

Q. And you took the pains to carry it?

A. They received information and applied to me, and I went to Washington to see if I could not at any rate protect Shubarth. When Judge Holt said to me, "We may do all we can to protect the government, but when citizens are not willing to do their part, then our government is lost and ruined," and I said if it is necessary to use the letter use it.

Q. Did you state to the commissioners also that it was a lively question between yourself and Mr. Simmons which should take the money, you or he?

A. No, sir, I did not; I told them what my relations to Mr.
454 Simmons were.

Q. Did you tell the commission also your connection with this business of the contract?

A. I did, sir; yes, sir.

Q. At your interview with Mr. Gardner, as you was going to the Bristol cars, did you or not state to him that you had procured a contract in the names of other parties?

A. I procured a contract for other parties? for other parties? I do not know what he means by that expression—not for myself, for such was not the fact. I had one of the contracts in my pocket and Mr. Anthony had the other at that time.

Mr. Blake. He asked you of two things. He asked you if you procured a letter from Mr. Schubarth, in which he spoke of this report of Mr. Simmons, or of his having been paid to procure the contract. I ask you how you came to have a letter from Mr. Schubarth on this subject?

A. I can produce the letter. Mr. Schubarth came to me and asked how I could help him in this contract. He had this in his hands. I told him I thought I could get him assistance to carry out his contract if he would make his contract pure and right. I have got the original letter; it may be more interesting still.

Q. I want to get at how you came to get that letter and see if you had any concern in disclosing this matter of Mr. Simmons?

A. I asked Mr. Schubarth if he desired me to negotiate with parties to carry out this contract—this contract of his—the Schubarth contract; and he said, "Yes." He had applied to everybody, and told the story of his connection with Mr. Simmons. This was in New York. I then wrote a letter for Mr. Schubarth to sign, to give me a power over this letter for the time that he would allow me to negotiate with capitalists to carry out this business, and this is the letter. The number of days I left blank until I met him at Delmonico's hotel, William st., New York. There we discussed the number of days, and he decided to give me four days.

455 "JANUARY 14*th*, 1862.

"SAMUEL NORRIS—DEAR SIR:

"I hereby make the following proposition to you: Whereas I have now a contract with the U. States government for the manufacture of 50,000 muskets at $20 I do hereby agree to give you four days to make such arrangements with parties that may be satisfactory to me to procure the fulfilment of said contract. If you shall make any such arrangements, I am to receive $1 per musket and commissions. I have agreed to pay James F. Simmons $1 per musket, or 5 per cent. That is to be paid to him the said Simmons. Truly yours,

C. D. SCHUBARTH."

Q. How did you come to be first called to this commission at Washington?

A. I will read the letter.

456 Q. What connection had Captain Balch with the matter?

A. Captain Balch inadvertently mentioned this subject before Major Hagner. He is my intimate friend. I cautioned him at the time that it was a confidential thing, and he inadvertently mentioned it before Major Hagner—Major Hagner being upon this commission. Said he, "You cannot tell, Mr. Norris, the number of times we have heard of this commission paid to Mr. Simmons. We have never had direct evidence concerning it." Instead of replying to the letter I went on to Washington.

Q. Was there any intention that Captain Balch should make such a disclosure?

A. He expressed regret and astonishment at the course pursued by Major Hagner.

Q. You went on a summons to Washington—what occurred?

A. I went to Major Hagner and told him. I first went to Capt. Balch. He felt very badly. I told him (Hagner) it was entirely confidential, and therefore, I should not use it. When Judge Holt made that appeal to me, I felt if he could not obtain the information from Schubarth and from the parties whose names I gave—Griffin and Rider, I said, "Use the letter, I will bear the harm."

Q. What was his summons to you that induced you to yield?

A. His expression was, "We may sit here and do all we can to protect the government; but if citizens of the United States are not willing to do what they can also, our government is ruined,"

457 or something like that."

Q. By Mr. Thurston. Is it through Capt. Balch that you get your contract for smooth bores?

A. No, sir, it is not; but I hope through my own reputation for industry and getting my work done well; I make the contract; Major Dyer never had a contract through Capt. Balch. Capt. Balch had at that time no position in the army. He has charge of the equipments, &c., and was stationed for a time in Springfield; had an office on the armory ground. He is as splendid a man as ever lived.

Q. By Mr. Thurston. Were you not following up Mr. Schubarth for many weeks, in order to obtain from him the use of that contract and the information he had to communicate on the subject.

A. I talked with Mr. Schubarth a great many times. At that time I was not. The thing had rested some considerable time until that very morning that I talked with him.

Q. Had you not long before that endeavored, by every application of ingenuity that you are capable of, to get from Mr. Schubarth the facts in regard to Mr. Simmons, to be used by you for your own purposes?

A. When Mr. Schubarth commenced to tell me, I gathered all I could.

Q. You don't answer directly. (Repeats the foregoing question.)

A. Mr. Schubarth commenced to tell me, and when he did, I obtained all the information I could; I never got any information until he commenced. That is the way I remember it. I will not speak positively.

Q. Had you been to him also before the time of that statement, again and again, to make arrangements concerning the contracting for parts of this contract?

A. I had, sir; yes, sir; yes, sir.

Q. Mr. Schubarth was here in attendance as a witness; was he under your summons; he has not been called; where is he now?

A. I do not know, sir.

458 *Re-direct.*

Q. What has the secretary of the commission told you about the extension of time under these contracts?

A. That the contracts had been extended.

Mr. Thurston. That is just no evidence at all. We proved by Mr. Jenckes that his had actually been extended. We proved by Mr. Anthony that he had made applications over and over again. Now, that is a fact in his experience, a part of the history of this case. But I submit that it is of a different character to prove that somebody had told this plaintiff that, in his opinion, they would be extended.

Q. Do you know in point of fact that barrel guns are imported from England?

A. Rough barrels can be imported, to cost $1 50, made of the John Marshall iron. I have the refusal of 5,000 per week, that would cost here under $1 50.

459 *Defendant's depositions.—Deposition of Simon Cameron.*

The said Simon Cameron, being about the age of sixty years, and having been first sworn to testify the truth, the whole truth, and nothing but the truth in the matter in controversy aforesaid, did thereupon depose and say, in answer to the annexed direct and cross-interrogatories, as follows:

Int. 1. What official position did you occupy in July, 1861.

Ans. I was Secretary of War.

Int. 2. Please state whether, as Secretary of War, you directed a contract to be made with the Providence Tool Company, for the

manufacture of twenty-five thousand muskets, which contract was executed in behalf of the government by Gen'l J. W. Ripley, in the month of July, 1861.

Ans. I have no recollection of it.

Int. 3. Please state, as fully and particularly as you are now able from recollection to do, the circumstances which induced you, as Secretary of War, to make said contract with the Providence Tool Company, and if the capacity of said company to faithfully fulfil any obligation which it assumed, or any other merit of said company, was presented to you by any person or persons, as reasons why the wish of the "Tool Company" to obtain a contract should be favorably considered by you; state who such persons were.

Answer. The War Department had not arms enough for the troops.

460 I had been informed by Gen'l Burnside and Gov. Sprague, of Rhode Island, that there were arms factories in Rhode Island, where the government could get muskets made. Senator Simmons also told me the same thing. My policy in bestowing the patronage of the War Department was to favor those States which had shown the greatest and earliest zeal in forwarding troops to Washington, and in contributing men and munitions to the defence of the government. Rhode Island, in proportion to her population, had certainly been foremost in this patriotic labor; so that, when one day Senator Simmons came to my office with a gentleman whom I do not recollect, and solicited an order for the manufacture of 25,000 muskets by some person or some company in Providence, R. I., I deemed the application one proper to be granted, and directed Gen. Ripley to make a contract for that number of arms, upon the customary terms established by the Ordnance department, to be arranged between himself and Senator Simmons. Senator Simmons's simple application and my long acquaintance with him in the United States Senate, and my exceeding anxiety to get muskets, satisfied me that the party or parties in whose behalf he made the request were suitable persons to be employed by the government. I do not recollect that a word was said to me about the Providence Tool Company's capacity to fulfil any obligations it assumed, or that any other merit

461 of said company was presented to me by any person as a reason why its wish to obtain a contract should be favorably considered. Senator Simmons's application and my intense anxiety to get arms enough to fight the country's battles decided me to give that order.

Int. 4. Did you ever see Samuel Norris, the plaintiff in this action, at any time before said contract was ordered to be given to the defendants? If yea, when, where, under what circumstances, and who accompanied him, if you remember?

Answer. I do not remember to have ever seen Mr. Norris, either before or after the said contract was ordered to be given, save that when I was in Springfield, Mass., in the autumn, a person introduced himself to me in the hotel as Mr. Norris, and thanked me for a favor I had done him. I suppose he was one of the hundreds upon whom I had conferred office, and that he was expressing his gratitude for

the appointment. I do not recollect to have ever seen him on any other occasion while I was Secretary of War. He may have been in my office, but my time was so constantly engrossed, and I saw so many thousands of people upon all kinds of business, that I have forgotten his visits, if he ever made any, and I do not recollect his companions, if any came with him.

Int. 5. Did the said Norris in any way do anything, or urge any reason or argument which tended, in your belief, to influence your mind in ordering said contract to be given to the Providence Tool Company? If yea, state fully all that the said Norris said or
462 did which exercised, or tended to exercise, any influence in favor of the defendants.

Answer. I do not recollect that he or anybody else did anything or urged any reason or argument to influence my mind in ordering said contract to be given. Indeed, he could not have done it. But I have already said that I have no recollection whatever of Mr. Norris in connexion with the order for muskets given by me to the Providence Tool Company.

SIMON CAMERON.

Cross-examination.

1st cross-interrogatory. When Senator Simmons and the other gentlemen you refer to called upon you about the contract, did not Senator Anthony call with them?

Answer. Probably he did, but I don't recollect that he did.

2d cross-interrogatory. Do you recollect, and if you do, please state, whether or not Senator Anthony, as well as Senator Simmons, made remarks in favor of, or tending to favor, the application for the contract now in question?

Answer. I have no recollection of it.

3d cross-interrogatory. Does not the fact that you do not recollect Mr. Norris as the gentleman who called with Mr. Simmons,
463 and that you do not recollect Mr. Norris having spoken to you about the contract, render it doubtful in your mind whether he was the man who called with Mr. Simmons, or does it even tend to create the impression upon your mind that he did not speak with you about making the contract before Mr. Simmons spoke to you about it?

Ans. I suppose I had no impression on the subject, because my mind was occupied so entirely by the duties of my place that I could not remember individuals.

4th cross-interrogatory. When you saw Mr. Norris in Springfield, did you have any, and what, distinct recollection of him? and if you had none, please state if he called up any, and what kind of associations in your mind.

Ans. It occurred to me he was some one I had seen, and the impression was an agreeable one; but I was then very much engaged about my official duties connected with the armory.

5th cross interrogatory. Please examine the annexed copy of a letter from Moses H. Grinnell, and state whether you received it, and also whether you received a letter from Mrs. Lincoln, the wife of the President, introducing Mr. Norris as a person whose statements could be relied upon; and if you do not distinctly recollect about it, please state whether you do recollect of having received from her a
464 letter of the kind relating to some gentleman, and whether you recollect having received more than one such letter from her.

Ans. I have no recollection of receiving a letter from either; I could not attend to such letters; though if I received such a one from Mrs. Lincoln, probably I read it, but I don't recollect it.

6th cross-interrogatory. According to your present recollection, did you understand, when Mr. Simmons called with the other gentleman referred to, that that gentleman was interested in obtaining the contract, and that Mr. Simmons had called to support that gentleman's application for it; or, in other words, did you not understand that that gentleman was the principal negotiator, and that Mr. Simmons had called as one personally disinterested to support the application?

Ans. As I have said before, I have very little recollection about it; but my impression is that that gentleman was the principal, or connected with the manufactory.

7th cross-interrogatory. You have mentioned why you thought it proper that such a contract should be given to Rhode Island. Now, if you were assured by Mrs. Lincoln and Mr. Grinnell that confidence could be placed upon the representations of Norris, and if he and Senator Anthony personally assured you that the Providence Tool Company were suitable persons for the government to
465 make such a contract with, would you not have given it to that company, altho' Mr. Simmons had not spoken with you on the subject?

Ans. I don't think I would have given a contract to Rhode Island of that kind unless it was recommended by Senator Simmons or Anthony, Gov. Sprague, or Gen'l Burnside, because they were the only gentlemen I knew in Rhode Island, and I thought they represented that State in that matter.

8th cross-interrogatory. In answer to the 3d interrogatory, you say you directed Gen. Ripley to make the contract on the customary terms established by the Ordnance department, to be arranged between himself and Senator Simmons. Now, were not the arrangements at that department about the contract made with Mr. Norris, and the contract delivered to him, and do you recollect that you in fact directed Gen. Ripley to make the arrangements with Mr. Simmons, and that, too, without adding "or Mr. Norris," or any other person?

Ans. I cannot recollect about it; as likely as not I said with Senator Simmons, or the gentleman who was with him, but I cannot recollect.

9th cross-interrogatory. Was it not the Burnside rifle that Gov. Sprague and Gen'l Burnside spoke about having made in Rhode

Island, and did you not consult with Gen. Ripley about con-
466 tracting for rifles of that kind, and why were they not contracted for instead of the Springfield musket?

Ans. I did consult Gen. Ripley about having the Burnside rifle made, and he was opposed to it. I desired to make a contract for that rifle, but as Gen. Ripley was opposed to it it was not made, in accordance with the rule I had laid down to make no contracts for arms not approved by the Ordnance department.

10th cross-interrogatory. Please examine the letter purporting to be signed by you, and hereto annexed, and state whether the signature to the same is your own, and whether you have any doubt that on the 18th day of last November you recollected facts about said contract which have since escaped from your recollection, your mind in the mean while having been occupied by the vast business of the War Department.

Ans. That is my signature, but the letter is not in my handwriting, and the practice was for the clerk to write an answer to a letter and bring it to me for my signature. It is probable that I recollected things about the contract last Nov'r which I do not recollect now. It is probable that I did. I will add that all the interviews respecting contracts and other matters were necessarily short, as everything in
regard to prices and various other things were fixed by the
467 different bureaus, and it was my habit, the moment a business was turned over to one of those bureaus, to dismiss it from my mind.

SIMON CAMERON.

Subscribed and sworn to before me, March 1st, 1862.

CHARLES DE SELDING,
United States Commissioner.

WAR DEPARTMENT, *Nov.* 18, 1860.

SIR: In reply to your note of the 15th inst., I have to state that I recollect that you did submit an offer to furnish muskets for the government, but I thought at the time you solicited a contract on your own account. It is impossible, however, at this late period, to remember correctly all the circumstances attending your offer.

Resp'y y'r obed't s'v't, SIMON CAMERON.

Mr. SAMUEL NORRIS,
Willard's Hotel, Washington, D. C.

NEW YORK, *5th June*, 1861.

HON. SIMON CAMERON,
Secretary of War, Washington:

SIR: My friend, Mr. Samuel Norris, of Rhode Island, will hand you this. Mr. Norris desires to present to you a proposition for
468 the manufacture of muskets for our government. He represents the Providence Tool Company, an establishment at Providence, and in first-rate credit. Mr. Norris is a gentleman, and one in whom

you may repose full confidence ; I therefore recommend him to you, hoping that he may be able to present such a proposition to you as may be advantageous to the government and himself.

I am very truly yours, &c.,

(Signed) M. H. GRINNELL.

I certify that the foregoing is a true copy of the original letter on file in this office.

JAS. W. RIPLEY, *Br. Gen'l.*

ORDNANCE OFFICE, *Feb'y 28th*, 1862.

Be it known, that James W. Ripley, who has signed the foregoing certificate, is a brevet brigadier general in the United States army, in charge of the Ordnance department, and that to his attestation as such, full faith and credit are due and ought to be given.

In testimony whereof, I have hereunto subscribed my name, [SEAL.] and caused the seal of the War Department to be affixed, on this 28th day of February, A. D. 1862.

EDWIN M. STANTON,
Secretary of War.

469 *Deposition of Gen'l Ripley.*

Deposition of a witness taken before me, George C. Thomas, as commissioner, by consent of the attorneys for the plaintiff and defendants, resident at Washington, in the District of Columbia, on the 1st day of March, A. D. 1862, pursuant to said consent and agreement, and to be read in evidence on behalf of the defendants in said action.

Brigadier General James W. Ripley, of the U. S. army, of lawful age, being by me first duly examined, cautioned and sworn, deposeth and saith as follows, in answer to the following interrogatories on the part of the defendants, propounded by Benj. F. Thurston, viz :

1st interrogatory. What official position did you occupy in the month of July, 1861, and what official position do you now hold ?

Ans. I was then brigadier general and Chief of Ordnance, and I now hold the same position.

2d interrogatory. Please examine the paper now shown you, and say whether the same was executed by you.

Ans. Yes, I executed the paper submitted.

3d interrogatory. Please state whether you had the discre-
470 tion to grant or withhold the said contract with the Providence Tool Company; and if said contract was ordered to be given out by any officer of the government, please state by what officer.

Ans. I had not the discretion to grant or withhold said contract; the said contract was ordered to be given out by General Cameron, the then Secretary of War.

At this point the direct examination was suspended, and the attorney for the plaintiff propounded

1st cross-interrogatory. Although it is for the Secretary of War to determine what contracts for muskets shall be made, does he or not consult with you on the subject, and obtain your opinion in regard to the same ?

Ans. He did consult with me in regard to this contract.

2d cross-interrogatory. Did Mr. Norris call upon you to obtain a contract for making 25,000 muskets for the Providence Tool Company; and when he called, did he or not show you a letter of commendation from Moses H. Grinnell, or other person?

Ans. He did so call upon me, and I am under the impression that he presented a letter from Mr. Grinnell, although I am not
471 certain if it was addressed to me or not.

3d cross-interrogatory. Did he or not call upon you several times before the contract with said company was obtained?

Ans. He did.

4th cross-interrogatory. Did he or not manifest an earnest interest in the subject, and did he conduct himself as a faithful and efficient agent, or otherwise?

Ans. He certainly manifested a strong interest in the subject; as far as I could judge, he appeared to be very earnest and very efficient.

5th cross-interrogatory. Did you or not state to him before the contract was made, and was such the fact, that the Secretary had determined to give out four contracts for 25,000 muskets each; that three of them had already been given out, and that an offer for the fourth was to be made, in the first place, to parties in Ohio; and was it afterwards determined to give it to the said Providence Tool Company, and not give it to the Ohio parties?

Ans. I answer affirmatively to the whole question.

At this point the direct interrogation was continued—resumed.

4th interrogatory. At the several interviews which you had with Mr. Norris before the contract was given out, did you or not
472 inform him that the matter was within the discretion of the Secretary of War, and refer him to the Secretary?

Ans. Yes, certainly, I did so state to him.

5th interrogatory. Was the determination of the question who should have the fourth contract, the Ohio parties or the Tool Company, determined entirely by the Secretary of War, and did you seek to exert any influence upon his mind either way?

Ans. The Secretary of War determined it, and I am not aware that I made an effort to influence him at all, except I was originally in favor of giving it to the four parties—Colt, Lambson, Jenks, and Greenwood, of Ohio; and after Greenwood was out of the case, I was just as much in favor of giving it to the Providence Tool Company.

6th interrogatory. Did you exert an active influence with the Secretary, to induce the granting of the contract to the Providence Tool Company?

Ans. I do not think that I did, believing that the Secretary had already determined to give the contract to the Providence Tool Company in the event Miles Greenwood declined it.

The cross-interrogation was here resumed.

473 6th cross-interrogatory. Did Mr. Norris give you the name and the location of the Providence Tool Company for the purpose of having the contract drawn up; and when it was drawn up and

subscribed on behalf of the government, did you deliver it to Mr. Norris ?

Ans. I answer cross-interrogatory 6th affirmatively.

7th cross-interrogatory. Did you confer with the Secretary in regard to the contract with the Providence Tool Company on the day before the contract was given out ?

Ans. I conferred with him several times in relation to it, but if or not on the day before the contract was given out I can't say.

JAS. W. RIPLEY,
Br. General.

This agreement, made this 13th day of July, A. D. 1861, between Brevet Brigadier General James W. Ripley, of the United States army, acting by authority of the Secretary of War, and Providence Tool Company, of Providence, Rhode Island, by J. B. Anthony, treasurer thereof, witnesseth:

1st. That the said company binds itself and its assigns to deliver to such officer of the United States as may be authorized to receive them, twenty-five thousand (25,000) muskets of the exact pat-
474 tern of the muskets made at the United States armory in Springfield, according to sample to be furnished to contracting party, all and each of the said twenty-five thousand muskets to interchange in their similar parts with each other, and with the Springfield muskets, and to be subject, before receipt or payment therefor by the United States, to the same degree of inspection by United States inspectors, appointed for the purpose, as the muskets made at the Springfield armory are subjected to ; and any of the aforesaid muskets to be delivered by the said company under this agreement which do not in all respects and particulars of pattern, material, workmanship and finish, come up to the standard of excellence established at the United States armory, which is to be determined and decided by the United States inspectors, shall be rejected.

2d. The said company does further bind itself and its assigns to manufacture and have ready for inspection and delivery to the United States, the aforesaid twenty-five thousand muskets not later than the following periods, namely: One thousand muskets not later than six months from the date of this agreement, and not less than one thousand muskets per month for the next three months, and not less than two thousand muskets per month for each and every month thereafter, until the whole twenty-five thousand muskets shall have been delivered, with the distinct understanding that each and all of these deliv-
eries must be made in as much shorter time as possible; and
475 that on any failure to make deliveries to the extent and within the time above specified, all the obligations of the United States to receive and pay for any musket then deliverable under this agreement shall be cancelled and become null and void.

3d. The said company does further bind itself, and its assigns, to deliver with the aforesaid twenty-five thousand muskets the following appendages of the regular pattern, subject to the same inspection as the musket, namely : One wiper, one screw-driver, one spare cone,

and one tompion to each musket, and one ball-screw, one spring vice, and one tumbler and wire punch, to every ten muskets; and also to put in good boxes, to be provided by the company, of the regular pattern and quality, the aforesaid muskets, twenty in each box, with their due proportion of appendages.

4th. It is expressly understood and agreed between the parties to this agreement before named, that payments shall be made to the said company, or its order, on the receipt at the Ordnance office in Washington, D. C., of certificates of inspection and evidence of delivery of not less than one thousand muskets, with appendages, at the following rates, namely, twenty dollars for each musket and set of appendages inclusive, and such price in addition for each packing-box as may be certified by the inspector to be just and fair.

5th. It is further understood and agreed that no member of
476 Congress shall be admitted to any share or part of this agreement, or to any benefit to arise therefrom.

In witness whereof, the parties to this agreement have hereunto set their hands and affixed their seals, the said James W. Ripley at the city of Washington, the 13th day of July, 1861, and the said J. B. Anthony at the city of Providence, the 24th day of the same month and year.

JAS. W. RIPLEY, [SEAL.]
Bt. Br. General.

PROVIDENCE TOOL CO., [SEAL.]
By J. B. ANTHONY, *Treas.*

Signed and sealed in presence of—

W. MAYNADIER, *Maj. of Ord'e,*
Witness to Gen. Ripley's signature.

Witness to signature of J. B. Anthony, treas.,
FRED'K W. HOWE.

DIST. OF COLUMBIA,
County of Washington:

I hereby certify that the within is the paper referred to by Gen'l Ripley in his answer to the 2d direct interrogatory on his examination, this first day of March, 1862.

GEO. C. THOMAS,
Commissioner.

477 *Deposition of James F. Simmons.*

On this 4th day of November, A. D. 1861, before me, James H. Parsons, a commissioner duly appointed by the circuit court of the United States for the district of Rhode Island, under and by virtue of an act of Congress for the more convenient taking of affidavits and bail, &c., passed February 20, 1812, personally appeared at my office, in the city of Providence, in said district, James F. Simmons,

a witness on the part of the defendants in the above-entitled suit. And the said Simmons, having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, did thereupon depose and say as follows, in answer to interrogatories propounded to him, through me, the said commissioner, by Benjamin F. Thurston, esq., counsel for said defendants:

1st. What is your age, residence, and occupation?

Ans. My age is sixty-six; my residence is Johnston, and my occupation is a farmer.

2d. What official position do you now hold, and for how long time have you held the same?

Ans. I hold the position of senator of the United States, representing the State of Rhode Island. I have served about four years on my present term, and served a former term of six years.

478 3d. Do you propose to go out of the State and district of Rhode Island? If yea, how soon, and to what distance?

Ans. I do expect to leave the district in the course of the present week. How far I am going depends upon circumstances; I hardly know myself.

4th. Do you propose to go to the distance of at least one hundred miles from the city of Providence?

Ans. Yes, more than five, I expect.

5th. Do you know any of the facts attending the procurement of a contract between James W. Ripley, brevet brigadier general, on behalf of the United States of the one part, acting by the authority of the Secretary of War, and John B. Anthony, the treasurer of the Providence Tool Company, and on their behalf, of the other part, dated the 13th day of July, A. D. 1861, relative to the manufacture for the United States of twenty-five thousand government muskets? If yea, state how said contract was obtained, and if any steps was taken by you to accomplish the same. State them fully.

Ans. I know something of the procuring of that contract, but I do not remember the date of the contract. This contract—the subject of the same—was brought to my notice by Mr. Norris. He informed me of it, I should think, the fifth or sixth of July;

479 that he wanted me to introduce him to the Secretary of War in order to obtain a contract for this Tool Company for making muskets. About the same day, perhaps, I talked with one or two of my colleagues about the subject, and it was suggested that it was somewhat doubtful whether he represented this company. Upon that suggestion I did not go with him till, perhaps, five or six days afterwards, when one of my colleagues observed to me that he had become satisfied that he did represent this company, and that he thought it would be better to go with him. My colleague and myself went to the Secretary of War's with Mr. Norris. He, the Secretary, was not in. As we returned to the sidewalk we saw him; he had just left his carriage. I went up and introduced Mr. Norris, and stated that he professed to represent a company in Rhode Island of the highest responsibility and every way reliable, and that he wanted to get a contract for them to make muskets—rifles we called them,

Springfield rifles. I suppose it is the same thing. The Secretary remarked, "You know Gen. Ripley, Simmons; go and tell him to give you a contract the same he has given others." I took Mr. Norris to Gen. Ripley; introduced him, and told the general that the Secretary said he must make out a contract for this company the same as he had given to others. He told Mr. Norris to sit down; that he was engaged just then, but that he would attend to
480 him directly. I then left the office. I think the second day after this, while I was attending a caucus of the Senate, some person came in and said Mr. Pearce wanted to see me in the anteroom—drawing-room he called it. I went there, and Mr. Pearce remarked that "the contract was likely to slip through," or some expression of that sort. He requested me to get into a carriage and ride with him to the War Department. Mr. Norris was there with Mr. Pearce. I should have said before, while riding over to the War Department, Mr. Pearce expressed a strong desire that the contract should be so drawn as to be submitted to the company for its approval before they were committed to the directors of the company. I told him I supposed that would be the natural form of the contract, the ordinary form. Mr. Pearce left the carriage at Willards' Hotel. Mr. Norris and myself went over to the War Department. I asked Gen. Cameron if he would give me a written order for this contract on Gen. Ripley. He said he would, and wrote a paper which I suppose was the order; I did not read it, but took it and presented it to Gen. Ripley. The general replied that that contract had been given out to parties in Ohio, and that there were no more to be given. I told him that I should have that contract for Rhode Island; that Gen. Cameron, the Secretary, knew what he was about. He said he must see him before he did it, and
481 give him the explanation. I told him I would go with him, and we would have it settled at once. We went to the Secretary, and he made a statement of what he had done with the Ohio parties. The Secretary told the general "to let Ohio slide; that that contract would go to Rhode Island." It was at one of these morning interviews that I asked him what he paid for these rifles. The Secretary replied that he did not know exactly; he believed it was twenty dollars; that I could find out by going over there and looking at the other contracts. The number of guns had been talked of at each of the interviews that I had with Gen. Ripley, but the price was only mentioned at this one interview. This is about all the agency that I had in the contract in procuring this contract.

6th. Who is the Mr. Pearce to whom you have referred to in your answer to the last interrogatory, and how is he connected with the Providence Tool Company?

Ans. It is Mr. Edward Pearce. I don't know how he is connected; he always told me he was interested in the Tool Company, and I always supposed he was a director. I know that when I got this contract I wrote to him and addressed the letter to him or Tully Bowen. I understood they were both members of the company—Tully D. Bowen is his name.

482 7th. At the time of your first interview with Sec'y Cameron, when you introduced to him Mr. Norris, was the said Norris acquainted with the Secretary? And had he to your knowledge had any previous interview with the Secretary upon the business of the contract?

Ans. I presume he was not acquainted with him. I believe he had not had, and I think he told me he had been about six weeks trying to get, an interview. I believe he had had no interview.

8th. Did the said Norris state expressly that he was unacquainted with Sec'y Cameron; or what did he say or do which led you to believe that the interview in your company was his first visit to the Secretary?

(Question objected to as leading.)

Ans. I can't recollect any precise language that was used, but distinctly recollect that he conveyed to me the impression and belief that he had had no interview with the Sec'y, and was unacquainted with him.

9th. At the first interview with the Secretary was anything said by the said Norris concerning the contract? If anything, state all that he said to the Secretary.

Ans. Mr. Norris never said anything to the Secretary about the contract in my presence at any interview, either the first or

483 the second.

10th. While you were riding from the Capitol with Mr. Pearce and Mr. Norris towards the Secretary's office, state whether or not Mr. Pearce expressed any desire that the contract should be obtained. If yea, state what he said.

(Objected to as leading.)

Ans. I don't know whether we were riding, or whether it was while we were in the reception room that he requested me to go and see if I could obtain the contract, notwithstanding the difficulty about the Ohio concern, the Ohio company; but at one or the other of those places he did express a desire to have the contract, and to have it so drawn as to be submitted to the company here to be accepted or rejected by them as they should decide.

11th. If the said Norris, to your knowledge, did or said anything which influenced or was calculated to influence the procurement of said contract from Sec'y Cameron, please state it.

(Objected to because the witness should be asked, if anything, what he heard Norris say upon the subject, and not about the effect he produced.)

Ans. I have already stated that he said nothing about it in my presence. What influence his presence or manner or conduct might possibly have I cannot tell.

484 12th. Would you have left the caucus of the Senate at the time you were called upon by Norris and Pearce to go to the Secretary if Norris alone had requested it?

Ans. That I can't say whether I should or not. I can't tell you what I should have done unless I was tried.

Cross-examination.

And the said witness doth depose and say as follows, in answer to cross-interrogatories propounded, through me, the said commissioner, by Joseph M. Blake, esq., for the plaintiff:

1st. In whose carriage did you go with Pearce and Norris from the Capitol to the Secretary's office, or in whose employ was it?

Ans. I don't know; it was a hack. I don't know who owned it or hired it.

2d. Do you know who paid for it?

Ans. I do not.

3d. Do you not recollect that after leaving the Secretary's office you rode elsewhere in the same carriage, and that Mr. Norris requested you when you had done with it to state how long you had used it, so he could know how much to pay for it; and do you not recollect
485 that after you had done with it he asked you how long you had used it?

Ans. I think I rode from the Secretary's office to the Senate. I went from there, and I think I rode back in the same carriage. Either at the time that Gov. Anthony and myself went with Mr. Norris to the Secretary's office, or at the time that Mr. Pearce and Mr. Norris went with me, the carriage we rode in was used by us, by Gov. Anthony and myself, but I can't recollect that it was on this occasion when we went from the Senate, because Gov. Anthony was not with us. At the time when we did use the carriage he requested that the time might be kept so that he could pay the driver, but I don't recollect which time it was.

4th. Did you see Sec'y Cameron or Gen. Ripley or any other officer on the subject when Norris was not present?

Ans. No. I don't recollect that I did.

5th. For what purpose did Mr. Pearce come to Washington at the time when you saw him there, and when you spoke to him about efforts making to get the contract; and who first informed him that an effort to get such a contract had been or was to be made?

Ans. I think before I went to Washington, this was perhaps the 3d day of July, Mr. Pearce told me he should come on there soon; he had two sons in the first regiment—soldiers. I supposed he was coming to see them. He is an owner in the screw facto-
486 ries here, and they were desirous of having some alteration made in the tariff of March 2d, 1861, upon wood screws, and I think that had some influence in carrying him there; that is about all I can say about that. I did not speak to him about efforts being made to get the contract; the contract had been obtained before he got there, and I had written to him here to that effect. I wrote him here that I had got this contract for the Tool Company; and as he got there the next day I knew he could not have received the letter, and told him myself that I had got it. This was the day before he called upon me to leave the caucus and go up to the Secretary's.

6th. You use the words "When I got the contract." Please state whether the contract was handed to you, and by whom and where,

and whether it was executed on the part of the government when it was handed to you ; and were you, in fact, present when the contract executed by the government was handed to any person for the company?

Ans. When I speak of the contract I don't speak of the written instrument, but of the bargain and understanding between the Secretary and myself that such a contract would be executed on the part of the government. Strictly speaking, I don't suppose it is a contract when the government executes it, until the other party takes it and executes it, as I understand it. I never saw the written con-
487 tract; I only read the one which was said to be a copy of it so as to understand the bargain.

Direct resumed.

And the said witness, in reply to further direct interrogatories propounded, through me, the said commissioner, by B. F. Thurston, esq., for defendants, deposes and says as follows :

(Mr. Blake, for the plaintiff, objects to any other question being asked for the defendant of the deponent, on the ground that the deposition has been closed, the counsel for each party stating that they had closed, and the deposition having been read to the deponent for his correction, and he making no correction.)

The deposition was closed after the cross-interrogatory had been asked and answered, and the whole was read to the witness, at his request, for his correction. He made no correction. The counsel for the defendants, upon the making of the above objection by the counsel for the plaintiff, desires the commissioner to state that all the counsel are present, and the deposition has not as yet been signed by the deponent.

J. H. PARSONS, *Com'r.*

1st. During the time that the said Norris was in Washington was he or not, to your knowledge, soliciting an office for himself and for members of his family from the government? And if you know
488 of that fact, state the office or offices he was desirous to procure.

(The question covering the whole time Mr. Norris was in Washington, Mr. Blake, for the pl'ff, objects to it as irrelevant.)

Ans. I don't know what he was doing before I got there, which was the fourth of July, but I think he spoke to me about obtaining some appointment for himself after I got there; I don't recollect that office, and had almost forgotten that he wanted any. Almost everybody there wants office, and it did not make much impression upon my mind.

2d. In addition to any office which he desired for himself, do you recollect whether or not he desired also to obtain an office for some member of his family?

(Objected to on the same grounds upon which the previous question has been objected to.)

Ans. I don't recollect distinctly, but my impression is he did speak of a place for some relatives. Whether they were members of his own family I do not recollect. I think they were members of his father's family.

Cross-examination resumed.

The said witness, in answer to additional cross-interrogatories propounded to him, through me, the said commissioner, by J. M. Blake, esq., for plaintiff, deposes and says :

489 1st. Did Mr. Norris speak to you about the appointment to any office of any relatives except his father?

Ans. I don't think he spoke of his father at that time. My impression is that his father had been appointed before that time.

2d. Did Mr. Norris at any time make any special efforts about the appointment of his father to the custom-house, or was the part he took on that subject in connexion with other citizens of Bristol, and did they recommend his appointment for the alleged reasons that without his capital and influence Bristol would not have had the sugar-house, one of the Bristol steam-mills, or the railroad ; that he was a man of high character, he had become reduced, and that he and no one of his family had ever before held, asked for, or been willing to accept, any office whatever, town, State, or national?

Ans. Well, Mr. Norris did make special efforts to have his father appointed collector, and rather overacted, and I think injured his father's prospects ; that there was very strong efforts made by other citizens I have no doubt, but whether he ever applied for any office before I do not know.

3d. Do you not know that while Mr. Norris was taking a
490 part to assist his father to the office, applications were pending from other citizens of Bristol for the causes mentioned in the last question?

Ans. I don't remember the testimonials in favor of the elder Mr. Norris. I never did read one of these letters of recommendation in my life. I did say, I believe, that there were strong efforts made by other citizens of Bristol.

4th. Instead of the plaintiff's father, was another man appointed to the office of collector, who was and is the publisher of a newspaper, and without a family, and who had often before held offices of honor and profit, and offices also in the custom-house department?

(Objected to by B. F. Thurston, esq., for defendant, as irrelevant.)

Ans. There was another man appointed instead of Mr. Norris's father, and he was an editor of a newspaper. I don't know whether he is now or not. I did not know that he was without family. I knew he had held offices of honor in the State, but I did not know that he ever held office under the United States before.

In answer to additional direct interrogatories, propounded as before, the witness deposes and says :

1st. Although Mr. Norris, senior, failed in the application for the office of collector, did he not receive an appointment to another office in the custom-house at Bristol?

491 Ans. I have always understood he did, and it was the understanding that it should be so when the other man was appointed, the contest between these two men being as to which should hold the post of honor, as they called it.

J. F. SIMMONS.

Sworn and subscribed before me this seventh day of November, A. D. 1861.

JAMES H. PARSONS,
U. S. Commissioner.

493 *Deposition of Henry B. Anthony.*

Henry B. Anthony, a witness produced on the part of the defendant, having been first duly cautioned and sworn to testify the truth in the matter to which this deposition relates, testified as follows, in answer to the following interrogatories:

1st interrogatory. What is your official position, and what was it in the month of July, 1861?

Ans. Senator in Congress, from the State of Rhode Island.

Q. Please state all the facts within your knowledge concerning the procurement of a contract from the War Department by the Providence Tool Company of Providence, for the manufacture of 25,000 Springfield muskets, in July, 1861. In your answer to this question please include all facts within your knowledge concerning any connexion which Sam'l Norris, the plaintiff, had with the procurement of such contract.

Ans. I came here in July, 1861, to attend the special session of Congress. I found Mr. Norris here; he asked me to accompany him to the War Department, to recommend his application for a contract for the manufacture of arms, I believed on the ground—

At this point the counsel for the plaintiff, Mr. Blake, entered the following objection:

I object to the statement of the grounds of the refusal unless
494 stated to Mr. Norris at the time.

(Answer continued) *on the ground* that it was a delicate matter, and hardly proper, in my opinion, for a man connected with the government, as I was, to urge the claims of any contractor on the government and altho' I would be happy to see him succeed, I did not feel like using any official influence in the matter. Another reason, but which I did not communicate to him as I recollect, was, that I did not suppose he had the facilities for manufacturing arms himself, but would necessarily under-let the contract, which I thought was of doubtful advantage to the government, altho' not necessarily improper in the contractor. He was very urgent, politely so, and said he represented the Providence Tool Company, who were my constituents, and gave large employment to labor in Providence, and that the contract would be for the advantage of

Providence and of the government. I thought, but did not state to him, that if the Providence Tool Company, several of the members of which were friends of mine, two of them intimate friends, desired my services in any way, or which I could properly render them, they would apply to me direct, and would have done so before I left Providence. Mr. Norris said that he appreciated the objection which I stated to him, but he was so satisfied that the offer which he had to make the government would be to its advantage; that he felt
495 sure if he could get an interview with the Secretary he should obtain the contract. I had some conversation with my colleague on the subject, who agreed with me, altho' we were both desirous of obliging Mr. Norris. My recollection here is (and in this I think it differs from the recollection of Senator Simmons) that Mr. Simmons subsequently told me that Mr. Edward Pearce, who was in the city of Washington, and who was one of the Providence Tool Company, had told him that the company was desirous of entering in the manufacture of arms, and would be glad of any assistance rendered to Mr. Norris. I then concluded that I could properly go with him to the War Department, and so told him.

I have omitted one thing: When Mr. Norris said that he felt sure that he would obtain the contract if he could get an interview with the Secretary, he also stated that he had been here a number of days (I think he said thirty) and could not get an interview. But whether he meant that he could not see the Secretary in all that time, or just then, I do not know.

I went with him and Mr. Simmons to the War Department. Gen. Cameron, was not in. After waiting a short time we left As we descended the steps of the department Gen'l Cameron drove up. We met him on the sidewalk. I think it was I who intro-
496 duced Mr. Norris to him; if not, I immediately took up the conversation, and said, in substance, "Mr. Norris represents the Providence Tool Co.; this company is composed of men of high character, of abundant capital and mechanical skill, and are among the most respectable of my constituents. They are able to do what they agree to, and if they fail are responsible for damages. They wish to contract for the manufacture of arms. Business is much depressed in our city; if it is consistent with the interests of the government we should like very much to have a share of its patronage distributed among the people of our State." Gen'l Cameron said, you shall have it; I am very busy, but go over to Gen. Ripley, you know him, and tell him, from me, to duplicate the contract which he made with certain parties on a certain day. I do not now remember the names of the parties, or the day, but was recent. We crossed over to Gen. Ripley's; introduced Mr. Norris as the agent of the Providence Tool Company, and gave him Gen. Cameron's message. That is all I know about it personally. I heard Mr. Simmons say that he went there afterwards.

The events which I have related made upon me at the time only the usual impression of current events; afterwards when I learned

of the controversy between these parties, which was a subject of general conversation, I recalled them, and as I then remembered them, I still recollect them clearly.

497

3d interrogatory. At the interview between Gen'l Cameron, Secretary of War, Mr. Simmons, Mr. Norris and yourself, what, if anything, was said by Mr. Norris to Gen'l Cameron? And if the conversation between them was anything more than the ordinary salutation, consequent upon an introduction, state which it was.

Ans. Nothing to my recollection.

4th interrogatory. What, to your best recollection and understanding at the time, did Mr. Norris say concerning the length of time which he had spent endeavoring to obtain an interview with the Secretary? Did you then get the idea that he had not yet seen Gen. Cameron?

Ans. My best recollection is, he said, I have been here thirty days, and can't get an interview with him. My impression was that he had not had an interview at all. I have since heard Mr. Norris say that he had had an interview with him.

I should testify clearly that Mr. Norris told me he had been here thirty days, and could not get an interview with the Secretary, but has told me since this controversy that he had had an interview with him, and this is what makes me distrust my recollection, as it only made on me the impression of ordinary events.

498

5th interrogatory. At the interview with Gen'l Cameron, did he make any allusion to a policy of giving contracts to the States that furnish men for the army?

Ans. I forgot to state that in the answer to the second interrogatory, either in that interview or subsequently, when talking of the subject, Gen. Cameron said to me, "I am in favor of sending the money where the men come from."

HENRY B. ANTHONY.

In the city of Washington, on the 7th day of July, A. D. 1862, personally appeared Henry B. Anthony, a witness produced on the part of the defendants, and having been by me first duly sworn, he testified as in the preceding deposition appears. Said deposition was taken by me by virtue of the commission hereunto annexed, the name of Gen'l Thomas having been striken out, and my own name inserted, by consent of counsel on both sides. The plaintiff and his counsel were present during the entire examination, and the def'ts were represented by their counsel. The deposition was taken from the lips of the witness in their presence, and was duly subscribed by him.

[SEAL.]

WM. P. WILLIAMS,
Notary Public and Commissioner.

Testimony and arguments on both sides closed.

499 Whereupon the counsel for the defendant corporation submitted to the court the following prayers for instruction to be given to the jury:

1st. That a contract like that declared on in the first and second counts of the plaintiff's declaration, for a contingent compensation for obtaining a contract from the War Department of the government of the United States, is against public policy and void.

2. That the 1st and 2d counts of the plaintiff's declaration allege, substantially, that there existed a contract between the Providence Tool Company and the plaintiff to pay the plaintiff, as compensation for his services, all such sum of money as any contract which he should obtain from the government of the United States for the manufacture of muskets might amount to over the sum of $17 per musket; and that altho' the jury may believe that such agreement was, in fact, made between the plaintiff and the defendants, yet that such contract or agreement is an illegal one, against public policy, and void, and no verdict for the plaintiff can be rendered thereon.

3d. That upon the *quantum meruit* count the plaintiff is not entitled in law to recover any other sum of money for services rendered to the Providence Tool Company in procuring a contract
500 for making arms than a fair and reasonable compensation for the time, speech, labor performed, and expenses incurred in performing such services, to be computed at a price for which similar services could have been obtained from others.

And in this connexion, if the jury believe that the contract for making muskets, dated July 13, 1861, was granted by the Secretary of War to the Providence Tool Company, upon the simple application of the senators representing the State of Rhode Island, and upon their recommendation of the defendants; and if they also believe that such application was made by the senators not on account of any influence of the plaintiff over them, nor from any desire to gratify him, but solely because they were desirous of aiding the Providence Tool Company, then the plaintiff is entitled for his services to ordinary compensation only, (as distinguished from extraordinary compensation for peculiar skill,) that is to say, his expenses necessarily incurred, and the fair value of his time while actually employed on the business of the defendants.

4th. That it is evidence which the jury in the subject of the value of the plaintiff's time may properly consider that the plaintiff
501 at the time he undertook the business of procuring the contract for making muskets in question, and while he was engaged in it, was seeking employment in the capacity of a paymaster in the army or navy of the United States, the compensation for which is fixed by law, at the sum of $189 per month.

Which instructions the court refused to give, but instructed the jury on each of the preceding propositions as follows:

As to the first, "The authorities that have been relied upon, gentlemen, from other cases, do not satisfy me that this is law, and that they apply to this case, and therefore I refuse to give you that instruction."

As to the second, "That follows the fate of the other, gentlemen. I cannot give you any such direction."

As to the third, "Gentlemen, I am inclined to give you that in charge, omitting the words, 'similar services might have been obtained from others,' for every man, of course, stands upon his own ground. One man's services may be worth more than another's, and of that, gentlemen, you would have a right to judge."

As to the request in connexion with the preceding, "I will give you this in charge, with some qualification: 'Entitled for his
502 services to ordinary compensation only.' I should leave out the word 'ordinary,' and say, to compensation for expenses necessarily incurred, and the fair value of his time and of his talents, and I would say while actually employed in the business of the defendants."

As to the fourth, "I shall not so charge you, because I think, if the plaintiff was willing to serve his country as a paymaster for $189 per month, you have no right to say that he shall not recover any more in this case for his services rendered to the defendants. It seems to me no proper measure of compensation in the one case and in the other. A man may be induced, especially in times like these, when the country calls for almost every man to do his duty; he might be willing to serve his country for a much less price than he would be willing to serve individuals."

To which refusal to give the instructions given, the defendant corporation, by their counsel, excepted, before the jury retired from the bar, and as the matter thereof did not appear of record, prayed the court to allow and seal this bill of exceptions, which being found correct, has been allowed and sealed accordingly.

(Signed) JOHN PITMAN, [SEAL.]
District Judge U. S., R. I. District.

503 Whereupon the jury retire, and, after due deliberation, come into court and render their verdict, which is duly affirmed as follows:

Verdict.

The jury find that the defendants did promise as the plaintiff hath declared in the third, fourth and fifth counts of his declaration; and did not promise as declared in the first and second counts of said declaration; and assess damages in the sum of thirteen thousand and five hundred dollars.

(Signed) EDMUND J. TOWNSEND, *Foreman.*

Judgment.

Whereupon it is considered by the court here that the plaintiff have and recover of the defendants the sum of thirteen thousand five hundred dollars, debt and costs of suit, taxed at two hundred and fifty-eight dollars and twenty-one cents.

And, after the rendition of said judgment, the defendants file the following petition for writ of error, to the Supreme Court of the United States.

504

505 *Petition for writ of error.*

To the honorable John Pitman, one of the judges of the circuit court:

Respectfully represents the petition of the Providence Tool Company, that at the June term of the circuit court of the United States for the district of Rhode Island, holden at Newport, by adjournment, on the 10th day of July, A. D. 1862, a certain cause came on to be tried, wherein one Samuel Norris was plaintiff and your petitioners were defendants, in which cause the jury, on the twenty-sixth day of July following, returned a verdict for the plaintiff for the sum of thirteen thousand five hundred dollars.

And your petitioners represent that, in their opinion, errors in matters of law were committed by the court in its instructions to the jury in said cause, which are specially assigned in the bill of exceptions herewith tendered; wherefore they pray that a writ of error may be allowed, and said cause be removed to the Supreme Court of the United States for the correction of the errors assigned.

THE PROVIDENCE TOOL COMPANY,
By ABRAHAM PAYNE.
BENJ. F. THURSTON,
Counsel for Deft's.

Let a writ of error issue, bond having been filed and approved.

JOHN PITMAN,
Dist. Judge U. S., Rhode Island District.

506

507 *Bond.*

Know all men by these presents that the Providence Tool Company, a corporation duly incorporated by the legislature of the State of Rhode Island, and located in the city of Providence, as principals, and Tully D. Bowen and Rufus Waterman, of the city and county of Providence, as sureties, are held and firmly bound unto Samuel Norris, of Springfield, in the commonwealth of Massachusetts, in the full sum of twenty thousand dollars; to which payment well and truly to be made the said Providence Tool Company does bind itself, its successors and legal representatives, jointly and severally with the sureties above named, who bind themselves, their heirs, executors, and administrators, jointly and severally with said Providence Tool Company, its successors and legal representatives, firmly by these presents.

Sealed with the seal of said Providence Tool Company, affixed by John B. Anthony, the treasurer thereof, who has been authorized so to do, and sealed with the seals of the above-named sureties, and dated this first day of August, in the year of our Lord one thousand eight hundred and sixty-two.

Whereas lately, at a circuit court of the United States, holden at Newport, within and for the Rhode Island district, by adjournment, on the 10th day of July, A. D. 1862, in a suit depending in
508 said court between Samuel Norris, of Springfield, in the Commonwealth of Massachusetts, plaintiff, and the Providence Tool Company, defendants, judgment was rendered against the said Providence Tool Company for the sum of thirteen thousand seven hundred and fifty-eight $\frac{21}{100}$ dollars; and the said Providence Tool Company having obtained leave to remove said cause to the Supreme Court of the United States upon a writ of error, and filed a copy of said writ in the clerk's office of said court to reverse the judgment in the aforesaid suit, and a citation directed to the said Samuel Norris citing and admonishing him to be and appear at a Supreme Court of the United States to be holden at Washington on the first Monday of December next ensuing the date hereof:

Now the condition of the above obligation is such, that if the said Providence Tool Company shall prosecute the said writ of error with effect, and answer all damages and costs if they fail to make their plea good, then the above obligation to be void, else to remain in full force and virtue.

PROVIDENCE TOOL COMPANY. [L. S.]
By JOHN B. ANTHONY, *Treas'r.*
TULLY D. BOWEN. [L. S.]
RUFUS WATERMAN. [L. S.]

Sealed and delivered in presence of—
HENRY WATERMAN,
Witness to signature of Rufus Waterman.
JOHN A. TAFT,
Witness to signature of Tully D. Bowen.
WILLIAM B. DART,
Witness to signature Prov. Tool Co.

Approved:

JOHN PITMAN,
Dist. Judge U. S., R. I. Dist.

509 SAMUEL NORRIS
vs.
THE PROVIDENCE TOOL COMPANY.

[SEAL.] UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the judges of the circuit court of the United States, holden in and for the Rhode Island district, greeting:

Because that in the record and process, and also in the rendering of a judgment in a suit before you, or some of you, between Samuel Norris, of Springfield, in the county of Hampden and Commonwealth of Massachusetts, a citizen of said Commonwealth of Massachusetts, plaintiff, and The Providence Tool Company, a corporation duly incorporated by the general assembly of the State of Rhode Island, and

located, established, and doing business in the city of Providence, in the county of Providence, in said State of Rhode Island, and composed of citizens of the State and district of Rhode Island, defendants, in an action of the case, a manifest error has intervened, to the great damage of the defendants, as has in his complaint been stated, and it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done to the parties aforesaid in this behalf, you are hereby commanded that, if judgment thereof be given, then under your seal you do distinctly and openly send the record and process in the suit aforesaid, with all things concerning them, and this writ, so that you have the same before the chief justice and the associate justices of the Supreme Court of the United States on the first Monday of December next, at Washington, being the present seat of the national government, that the record and proceedings aforesaid being inspected, they may cause to be done thereupon what of right ought to be done.

510 Witness the Hon. Roger B. Taney, our Chief Justice of the said Supreme Court, this eighth day of September, in the year of our Lord one thousand eight hundred and sixty-two, and of the independence of the United States the eighty-seventh.

HENRY PITMAN,
Cl'k Cir. C't U. S., R. I. Dist.

Allowed.

JOHN PITMAN,
U. S. District Judge Rhode Island District.

511 RHODE ISLAND DISTRICT, *ss:*

[SEAL.] *The President of the United States of America to the marshal of said district, or to his deputy, greeting:*

You are hereby required to make known to Samuel Norris, of Springfield, in the county of Hampden and Commonwealth of Massachusetts, a citizen of the Commonwealth of Massachusetts, that in a certain action on the case, wherein the said Samuel Norris was plaintiff, and The Providence Tool Company, a corporation duly incorporated by the general assembly of the State of Rhode Island, and located, established, and doing business in the city of Providence, in said Rhode Island district, and composed of citizens of the State and district of Rhode Island, were defendants, wherein judgment was rendered against the said defendants in the circuit court of the United States for the first circuit, holden in Newport, within and for the Rhode Island district, at the June term thereof, A. D. 1862, to wit, on the twenty-fifth day of July, being the twenty-third day of said term, the said defendants have this day sued out a writ of error unto the Supreme Court of the United States next to be holden at Washington, within and for the said United States, on the first Monday of December next, A. D. 1862; and has also given bond, with good and sufficient surety, in a sum by me deemed sufficient to prosecute said writ of error with effect, and to answer all damages and costs.

And that the said Samuel Norris is therefore cited and admonished to appear at said Supreme Court, to show cause, if any there be, why the judgment rendered against the said Providence Tool Co. in the said writ of error mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the seal of the said circuit court, and my hand, this
512 eighth day of September, A. D. one thousand eight hundred and sixty-two.

JOHN PITMAN,
District Judge U. S. for Rhode Island District.

I hereby acknowledge legal service of the within citation.
Providence, Oct. 6th, 1862.

SAM'L NORRIS,
By E. H. HAZARD,
His Attorney.

UNITED STATES OF AMERICA,
Rhode Island District.

OCTOBER 15*th*, 1862.

I have this day made service of the within by reading the same in the presence and hearing of the within named Samuel Norris, as commanded, and have delivered to him in hand a true and attested copy of the same.

ALBERT SANFORD,
U. S. Marshal.

Service	$2 00
One copy	50
500 miles' travel	30 00
	$32 50

513 UNITED STATES OF AMERICA,
Rhode Island District, ss:

CLERK'S OFFICE CIRCUIT COURT,
Providence, November 20th, 1862.

I, Henry Pitman, clerk of the circuit court of the United States for the first circuit, within and for the Rhode Island district, in pursuance of the command contained in the within writ of error, do make return thereof, and hereto annex and transmit herewith a true copy of the entire record and all proceedings in the cause or suit "Samuel Norris *vs.* The Providence Tool Company," wherein judgment was rendered in said circuit court of the United States.

I also annex the citation served by the marshal upon the issuing of said writ of error, a copy of which writ was lodged in this office on the eighth day of September, A. D. 1862, by the plaintiff in error, for the adverse party.

[SEAL.] In testimony whereof, I have hereunto set my hand and the seal of said court this twentieth day of November, A. D. 1862.

HENRY PITMAN, *Clerk.*

1203

Supreme Court of the United States.

THE

PROVIDENCE TOOL COMPANY,

(PLAINTIFFS IN ERROR,)

VS.

SAMUEL NORRIS.

BRIEF OF POINTS AND AUTHORITIES IN BEHALF OF THE PROVIDENCE TOOL COMPANY.

A. PAYNE,
BENJ. F. THURSTON, } *Counsel for Plff's in Error.*

Supreme Court of the United States.

THE PROVIDENCE TOOL COMPANY,
Plaintiffs in Error,
vs.
SAMUEL NORRIS.

December Term, 1863.

No. 208.

BRIEF OF POINTS AND AUTHORITIES IN BEHALF OF THE PROVIDENCE TOOL COMPANY.

STATEMENT OF THE PRINCIPAL FACTS MATERIAL TO THE CASE.

The case, as it was exhibited by the proof at the trial before the Circuit Court for the District of Rhode Island, was substantially as follows:

During the summer of the year 1861, just prior to the first repulse which our army encountered at Manassas, the defendant in error applied to the managing agent of the Providence Tool Company, a manufacturing corporation located in the city of Providence, and inquired if the Company would be willing to take a contract from the government of the United States for the manufacture of muskets. He was informed by the agent, that the Company would be willing to undertake such a contract if the number to be contracted for should be sufficiently large, and the price to be paid adequate to war-

rant the expenditure necessary for appropriate tools and machinery. No arrangement for obtaining a contract was concluded at this interview.

Not many days afterwards, Norris sought another interview with the agent of the Company, to say that he was about visiting Washington, and to ascertain if the Company would accept a government contract for fifty thousand muskets at the price of fifteen dollars each. The agent replied that such a contract would, in his judgment, be desirable; basing his belief upon estimates which he had recently collected for the cost of machinery to make another description of musket from that used by the United States. Norris then asked what price the Company would pay him for procuring such a contract, and to the answer that if he should procure such a contract the Company would deal liberally with him, he inquired if they would agree to give him the difference between the price to be named in the contract and fifteen dollars per musket. To this, Mr. Norris says the agent replied that they would. The agent does not recollect that he so stated, but agrees that encouragement was given that if Norris should be successful in procuring a contract acceptable to the Company he would be paid liberally for his services.

Afterwards, and about the first of July, Norris called again upon the agent of the Company to inform him that a contract for fifty thousand muskets could not be obtained, but that it was probable that one for making twenty-five thousand could be secured at a price of seventeen dollars each, and desired to know if such a contract would be acceptable. The agent replied affirmatively, when Norris asked what price the Company would, in the event that he procured it, pay to him. The agent evaded the question, but, upon being pressed by Norris, repeated what he had said before, that if the contract should be procured by Norris, he would be dealt with liberally; although to the suggestion of Norris, that in such event he should receive one dollar per musket, he remarked, "I should call that a big price." (*Record, pp.* 123, 124.)

Norris proceeded to Washington, for which place he was about starting at the time of this last interview, and on the 4th of July reported by letter to the agent of the Company, "That he" (Gen. Ripley, chief of ordnance,) had "as good as said he would recommend the Secretary to make such a contract," that it had been already determined to give out only four contracts to four parties who had made application, but that "he (Gen. Ripley) would be disposed to recommend an additional contract with your Company from my strong recommendations as to what you can do." Norris further advised the agent to come on at once, and to get "all the letters that will give influence."

The agent of the Company replied that it was not consistent with his engagements to attend in Washington; that he doubted if the War Department would be willing to pay a price for twenty-five thousand muskets at which the Company would be willing to contract, in view of the necessity which they would be under of purchasing new tools and machinery, and the prospect of having this machinery useless upon their hands at the completion of the contract; but concluding that if the government should be willing to pay seventeen dollars per musket, it would amply pay to make the investment. (*Record, page* 10.)

Some further correspondence passed on the subject between Norris and the agent of the Company, which is set forth in the record, and which is not necessary to be fully stated here. It appeared, also, at the trial, that Norris had, for the purpose of assisting himself in procuring the contract, obtained letters of introduction and recommendation from Mr. Moses H. Grinnell, a connection of his by marriage, and from Mrs. Lincoln, the wife of the President. (*Record, pp.* 7 and 41.) It is probable, also, that he obtained similar assistance toward the furtherance of his schemes from other persons, as he says, in a letter to Mr. Tully D. Bowen, (*Record, page* 226,) that he has "been concentrating influence at the department from New York and this place (Washington) in favor of this Company;" and again, at an interview with the agent of the Company, he inquired the capital of the Corporation, "as I was using New York influence, and they would like to know." (*page* 8, *fol.* 16.)

It appeared further, from the statement of the plaintiff, who was examined as a witness in his own behalf at the trial, (*Record, pp.* 12 *and* 37,) that up to July 11th, he had entirely failed in his purpose. The Secretary of War had referred him to the Chief of Ordnance, Gen. Ripley, who could give him no assurance of success. He then applied to Senators Anthony and Simmons for their assistance. These gentlemen took him to the War Department (*page* 12) on the 11th of July, and made such representations concerning the character and standing of the Providence Tool Company, that an order for twenty-five thousand muskets was at once given by Gen. Cameron, at the price of twenty dollars each.

This contract, a copy of which will be found on page 17, was taken by Mr. Norris to Providence and delivered to the agent of the Company, John B. Anthony, and the same was accepted by the Company on the 24th of July.

Mr. Norris, immediately after his arrival in Providence with the contract, claimed that his compensation should be for procuring it the sum of $75,000. (*Record, p.* 20, *fol.* 39.) The agent insisted that he had not, in behalf of the Company, agreed to give Norris the difference between the contract price and seventeen dollars per musket, but contended that he had only promised a liberal compensation in the event that he should succeed. Considerable negotiation upon the subject followed between the directors of the Company and Norris, which finally ended in a proposal to settle the question of compensation by paying him fifty cents per musket. (*Record, p.* 132.) This was declined by Mr. Norris, who, in turn, offered to accept $25,000. (*Page* 23, *fol.* 46.) The Company then withdrew their offer, (*fols.* 45 *and* 48,) and Mr. Norris commenced his action to recover the full sum of $75,000.

The cause came on to be tried at the June term of the Circuit Court for the Rhode Island District, 1862, before Mr. Justice Pitman and a jury, upon a declaration containing both special and general counts for the plaintiff's services in procuring from the War Department the contract in question.

The defendant Corporation pleaded the general issue to the whole declaration, and relied for their defence upon the

proposition of law, that an agreement of such a character could not be enforced by the plaintiff, and if this did not prevail, upon several propositions of fact in reduction of the plaintiff's demand, the principal of which were that the contract was not obtained through any influence which Norris had put forth, but was a free offer on the part of the government upon the recommendation of Messrs. Simmons and Anthony; and further, that although it was admitted that the agent of the Company had stipulated with Norris, that in the event of his procuring a contract for the manufacture of twenty-five thousand muskets by the Company, he should be liberally compensated, yet, that in fact the execution of the contract which had been so procured and which he had induced them to take, would entail a loss of $100,000 in consequence of the outlay necessary to establish a new business and the difficulty of conforming to the nice requirements of the government's standard of inspection.

It was not claimed that the plaintiff had rendered any other services for the Company than those which were directly connected with the procurement of the order of the War Department for twenty-five thousand muskets in question.

The jury returned a verdict for the plaintiff upon the other counts in the declaration, with the exception of the first and second, which set out that his compensation was to be three dollars per musket, and awarded damages for him in the sum of $13,500.

POINTS AND AUTHORITIES SUBMITTED BY THE PLAINTIFF IN ERROR IN SUPPORT OF THE BILL OF EXCEPTIONS TAKEN TO THE INSTRUCTIONS OF THE COURT TO THE JURY.

I. The first point in the instructions of the Court to the jury to which exception is taken is the refusal to give in charge, that an agreement for a contingent compensation for procuring a contract for the manufacture of arms from the War Department of the government is against public policy and incapable of being sustained and enforced in a court of law.

The authorities in support of the principle upon which this proposition rests are very numerous, entirely uniform, and have been deduced from a great variety of cases where an immoral consideration, a champertous contract or one which savored of maintenance, a bargain for the sale or the resignation of an office, an undertaking in contravention of a principle of the common law or against the spirit or letter of a statute; a contract prejudicial to a sound state of public morals, or of a mischievous influence, or tending injuriously to affect the rights or interests of third persons or the general public, has been attempted to be enforced.

1. *Cases relating to Agreements the Execution of which would involve the Violation of some Principle of Law or the Provisions of a Statute.*

In *Holman v. Johnson*, (*Cowp* 343,) Lord Mansfield said: "No court will lend its aid to a man who founds his cause of action upon an immoral or illegal act. If from the plaintiff's own showing, or otherwise, the cause of action appears to arise *ex turpi causa*, or from the transgression of a positive law, then the court says he has no right to be assisted," and again in *Jones v. Randall*, (*Cowp* 39), "Many contracts which are not against morality are still void as being against the maxims of sound policy." In *Shiffner v. Gordon*, (12 *East.*, 304,) Lord Ellenborough expresses the result of the

previous cases in the sentence, "It is a settled rule, that where a contract which is illegal remains to be executed the court will not assist either party in an action to recover for the non-execution of it."

There is a large class of cases which, by analogy, bear upon the question here involved, and which contain applications of the general principle above stated to various instances. Thus no recovery can be had upon a contract to box for a wager, (*Webb v. Bishop*, 1 *Esp.*, *Dig.* 88); or for the sale of the command of a ship in the East India Company's service, (*Blatchford v. Preston*, 8 *Term Reps.*, 89); or for the payment of a part of the profits of an office to the former incumbent in consideration of his resignation of such office, (*Parsons v. Thompson*, 1 *H. B.*, 322); or for a sale of goods which the purchaser intended to smuggle, (*Clugas v. Penaluna*, 4 *Term Reps.*, 466; or for provisions furnished to a voter against Statutes 7 and 8, William III., (*Ribans v. Crickett*, 1 *B. & P.*, 264); or for breach of an agreement to perform at a theatre which was not regularly licensed, (*Gallini v. Laborie*, 5 *Term Reps.*, 242); or for a sale of bricks under the statutable size, (*Law v. Hodson*, 11 *East.* 300); or for a sale of naval stores to be exported contrary to statute, though no fraud imputed to the plaintiff, (*Parkin v. Dick*, 11 *East.*, 502); or for part proceeds of a slave-trading voyage, (*Fales v. Maybery*, 2 *Gallison*, 560); or upon a note payable in bank notes of other States, a statute prohibiting such notes as currency, (*Springfield Bank v. Merrick*, 14 *Mass.*, 322); or for the sale of tickets in an unauthorized lottery, (*Hunt v. Knickerbocker*, 5 *Johns*, 327); and all right of property has been denied in plain, unstamped pieces of German silver, as metal, which were of the size of Mexican dollars, and which were seized *in transitu* to a place to be milled, (*Spaulding v. Preston*, 21 *Verm.*, 9.)

The principle that the sale of a public office is contrary to public policy, and that such contracts have a corrupting tendency, has been lately extended to the case of a contract stipulating merely for the *resignation of an office*, without any agreement to exert any influence toward the appointment of a successor, and this, too, where the sum agreed to be paid

for such resignation was only an equitable return of a portion of a sum of money previously paid by the retiring officer upon a like contract to his successor, who had also been his predecessor in the same office, (*Eddy vs. Capron*, 4 *R. I.*, 394.)

In entire consistency with the doctrine that all contracts with, or benefits from, the government ought not to be the result of any corrupting influence, but should be awarded on the principle of *detur digniori*, it has been held that an agreement on the part of one person to pay a sum of money to another person as an inducement for the latter *not to propose to carry the mail* upon a certain post route in opposition to the former, is against public policy and void, although no act whatever was done by the party to whom the promise was made, to influence the success of the other party's application, and the applicant was a suitable and responsible man to perform the service. (*Gulick et. al. v. Bailey*, 5 *Halstead*, 87.) In this case the Court remark: "It has been urged that the plaintiff was not bound to bid. That is not the test of the principle. In none of the cases cited (referring to cases relating to agreements to forbear to bid at auction sales, 6 *Johns*, 194—8 *Johns*, 444—13 *Johns*, 112,) was the party bound to bid, but, being at liberty to bid, he suffered himself to be bought off in a way which might prevent competition." Similar principles governed the Court in *Pingry v. Washborne*, (1 *Aiken*, *Verm.*, 264,) where it refused to sustain an agreement to pay a sum of money for withdrawing opposition to the passage of an act affecting the interest of a corporation. The Supreme Court of Massachusetts, in another case, to be cited hereafter as a further application of the broad principle contended for, (*Boynton v. Hubbard*, 7 *Mass.*, 112,) remark in reference to the class of illustrations now being considered: "It is upon this same principle that bargains to procure offices are rescinded, *not on account of fraud in either of the parties, but for the sake of the public, because they tend to introduce unsuitable persons into public offices.*"

2. *Cases relating to Agreements involving the Elements of Champerty or Maintenance.*

Another class of cases to which the same rule of decision has been applied, is those which are founded upon an agreement which involves the elements of maintenance or champerty, although not to such an extent as to be within any statute upon these subjects, or to amount to a misdemeanor at common law.

In *Wallis v. Duke of Portland*, (3 *Ves jr*, 494,) which was a bill filed for a discovery in aid of the suit of the plaintiff for services and expenses as solicitors, incurred at the instance of the defendant, in contesting before the House of Commons the seat of the member for Colchester in behalf of George Tiernay, who claimed to have been elected, the demurrer of the defendant was sustained; not on the ground that the transaction was within the statute of 5 and 6 Edw. VII., but because it savored so much of maintenance in its nature as to render it unfit for a court to entertain a bill concerning it on grounds of public policy.

In *Thurston v. Percival*, (1 *Pick.*, 415,) the plaintiff brought his action for professional services as an attorney at law in prosecuting to a successful result an important suit against a debtor residing in another State. An agreement was produced at the trial whereby it was stipulated that the plaintiff was to receive ten per cent. for his services upon the amount collected, but the Court held that no recovery could be had upon such a contract, and further, that upon a count in *quantum meruit* he was not entitled to compensation for any service rendered in the matter while such agreement was in force.

In *Boynton v. Hubbard*, (7 *Mass.*, 112,) the action was upon a covenant contained in an indenture, whereby the defendant, in consideration of an advance of money, agreed that the plaintiff should have one-third of all such estate as the defendant might receive as the heir expectant of a relative, Chief Justice Parsons, in delivering the opinion of the Court, says: "Arguments drawn from considerations of public policy have, and ought to have, great weight, both in

equity and at law." The jury to whom this case was submitted, found by their verdict that there was no fraud in the transaction, and therefore, "If the covenant is void, it must be on the principle that it is a fraud *upon neither of the parties*, but upon third persons, not parties to it, productive of *public mischief, and against sound public policy*. And that this contract has such an effect, we cannot doubt."

See, also, *Powell v. Knowler*, (2 *Atk.*, 224,) where contracts which have a tendency to *encourage champerty* are declared void. Almost numberless decisions could be cited upon the same point, but the reasoning in the cases referred to is so cogent and so consonant with a sense of natural justice and propriety, that it is deemed unnecessary to multiply authority in support of a principle which has received the sanction of the highest judicial minds.

3. *Cases relating to Agreements to procure Legislation, but which do not involve the stipulation to use sinister influence.*

Another, and a very large class of cases, relate to agreements for compensation for procuring legislation. All such have, without an exception, been held to be void. It is not necessary that sinister or improper influences should be contemplated or should be used in order to render such agreements void. It is enough that such contracts have a corrupting tendency, especially when the compensation of the agent is dependent upon his success, and if legalized in any form would be fruitful of mischief.

This Court had occasion to consider the subject in the case of *Marshall v. Baltimore and Ohio R. R. Co.*, (16 *How.*, 314,) and aside from the conclusions to which it arrived as the result of the facts proved, stated that it was "an undoubted principle of the common law, that it will not lend its aid to enforce a contract to do an act that is illegal, or which is inconsistent with sound morals or public policy, or which *tends to corrupt* or contaminate, by improper influences, the integrity of our social or political institutions." And again,

"Bribes in the shape of high contingent compensation must necessarily lead to the use of improper means and the exercise of undue influence. Their necessary consequence is the demoralization of the agent who covenants for them."

That it is not necessary for the element of sinister or personal influence to be contemplated by the agreement, or to be in fact resorted to by the agent, in order to render such agreement for service obnoxious to the law, is directly asserted in other cases. The plaintiff in *Harris v. Roofs*, (10 *Barb.*, 489,) sought to recover in *indebitatus assumpsit*, and on a *quantum meruit*, for his services and expenses in prosecuting before the Legislature of New York, a claim in behalf of the defendant to a certain tract of land derived under an Indian grant. It does not appear from the case, that the plaintiff was to observe any secrecy or that his true representative character was not fully understood. Neither was it suggested that he was expected to employ, or did in fact make use of, any sinister or improper influence with the members of the legislature. It was shown that he appeared at hearings of the committee to whom the same was referred, and that the value of his services to the plaintiff and the expenses by him incurred during his stay in Albany were equal to the amount charged, which was not a large sum; he having failed of establishing the defendant's title. Some question was made, whether his compensation was not to be contingent, as was proved to have been the agreement with a former agent of the defendant in the same business. The Court, however, use the following language: "Even without any agreement to share in the avails of the claim, we think the claim invalid as against public policy and sound legislation. It certainly would imply a most unjustifiable dereliction of duty to hold that the employment of individuals to visit and importune the members is necessary to obtain justice. Such practices would have a tendency to prevent the free, honorable and correct deliberation and action of this most important branch of sovereignty. We cannot think it good public policy to require our courts to enforce such contracts. It can neither be necessary or proper for the legislature to be surrounded by swarms of hired retainers of the claimants upon public bounty

or justice. To *legalize* such a system would, to say the least, be a reflection upon the ability and industry of our legislators."

The case of *Gill v. Williams & Davis*, (12 *Louisiana*, 219,) is also in direct point. The contract declared on was a promise to pay $1,500 "on condition that the State of Louisiana should pay indemnity for slaves which were seized by the State as the property of W. H. Williams, indemnity for which is now claimed by T. N. Davis and W. H. Williams," and the plaintiff alleged that the consideration of the contract was his professional services as a lawyer in presenting and prosecuting the claim of said Davis & Williams before the Legislature of Louisiana, and that he diligently and effectually served until the condition was fulfilled. There was no improper influence stipulated for, and none in fact, according to the proof, was used or attempted to be used.

In discussing the case, the Court adopt a line of reasoning which fully sustains the doctrine for which, in this case, we contend:

"We are stopped at the threshold by the conviction that law, public order and good morals strike all such contracts with nullity. It is not necessary that improper influences should have been used, and in a particular case, to affect such a contract with nullity, the law looks to the *general tendency* of things, it opposes the beginnings of evil, it shuts the door against temptation by sweeping rules which admit of no evasion.

"The plaintiff in this case cannot recover, not because he has resorted to bad means in order to procure the passage of a law in which he had a pecuniary interest, for of this there is no proof and no imputation, but because he has made a contingent contract which, if enforced in this case, might open the door to a practice of corruption and to the use of sinister influences."

The case of *Fuller v. Dame*, (18 *Pick.*, 472,) involves the same principle as that which controls the previous cases, but exhibits an application of it to still another state of facts. The action was to recover a sum of money as compensation for services rendered upon an agreement, which recited that the defendant was the owner of land which would be enhanc-

ed in value if a certain railroad corporation would establish their depot on certain flats, and, that in order to procure the corporation to make such location, it was necessary to form a joint stock company to purchase the flats and give a portion thereof to the railroad corporation for the depot, and that the plaintiff had agreed to aid in getting up such a campany, and in causing the railroad corporation to fix its depot on the flats. The instrument stating that it was the plaintiff's opinion that the railroad corporation, with a view to the public good and the interest of the stockholders ought to have its depot so located. The plaintiff was a member of the railroad corporation at the time of the agreement, and subsequently became a member of the joint stock company. There was no stipulation that the agreement should be kept secret. It was not denied that the location was for the interest of the stockholders, and it was proved that it was considered by the engineer of the railroad corporation to be a favorable one, and he advised to the adoption of it in preference to any other.

Chief Justice Shaw, in delivering the opinion of the Court, after considering the argument that there was nothing on the contract itself which would lead to the presumption that it was intended to induce the person with whom it was made to do an unlawful act, remarks: "The law goes further than merely to annul contracts where the obvious and avowed purpose is to do, or cause the doing, of unlawful acts; it avoids contracts and promises made with a view to place one under wrong influences — those which offer him a temptation to do that which may injuriously affect the rights and interests of third persons."

The obvious principle to be deduced from the preceding classes of cases is, in its fullest force, applicable to the case at bar. The evil tendencies of an agreement to procure a favor from one of the departments of the government for a compensation contingent upon the success of the undertaking are quite as great as in the case of an agreement to procure legislation upon a similar consideration. The heads of the several departments exercise by delegation the high functions which by law have been confided to them, and are only the execu-

tive ministers appointed to carry out the will of the law-making power. The authority to make contracts for arms was derived from the legislature. It would have been competent for the Congress to have authorized the making of such contracts through one of its own committees, or by the concurrent action of the two houses of which it is composed, to have settled upon and agreed to the terms of each contract. It follows, therefore, that if the agreement set up by the defendant in error would be condemned if it related to the procurement of legislation beneficial to the plaintiff in error, it must, for the same reasons, fail of support if it relates to the procurement of the same benefit from the Secretary of War, to whom the power of conferring it had been delegated.

It was not until the prospect of a civil war became imminent that the restrictions upon purchases and contracts for supplies for the use of the several departments of the government without public advertisement being first made in writing, was repealed. (*Act of Feb. 5th*, 1861, *sec.* 5, *XII. Statutes at Large*, 150.) This, however, was done in view of the exigencies in which the country was likely to be placed, and not because the policy of protecting the government from imposition was intended to be changed. With this proper and ordinary safeguard removed, in consequence of the necessities of the times, it becomes more imperatively than before the duty of the courts to nullify any agreement between individuals the tendency of which may be to perpetrate a fraud upon the public.

Again, an agreement for contingent compensation for the service of procuring a contract from one of the departments of the government is against the spirit of the act of 1853, to prevent frauds upon the treasury of the United States. (10 *Statutes at Large*, 170.) By this act all champertous contracts with agents of private claims are declared to be void. If such be the policy of the law with respect to the assignment of existing demands against the government founded upon the consideration of services already rendered, how much less entitled to favor are agreements in which the agent offers, for a share of the anticipated profit, to *create* a claim

against the government. This Court, in rendering its opinion in the case of *Marshall v. Baltimore and Ohio Railroad Company*, referred to this statute as indicative of the rule of policy in the case of speculative bargains for the procurement of legislation, and declare it to be the duty of the courts in all analagous cases to take a firm stand and "discountenance, as against the policy of the law, any and every contract which may tend to introduce the offences prohibited."

An inspection of the record in this case, will show that the acts and conduct of the defendant in error in procuring the contract with the War Department for which he asks his reward are precisely what the law anticipates, from the agreement he sets up, that they would be.

In the first place, he applied to Mr. Moses H. Grinnell for a letter to Gen. Cameron, and obtained from him one that would be very likely to advance his purposes. (*Record, p.* 7.) With this letter he proceeded to Washington, but not succeeding in having an immediate interview with the Secretary, he called upon the Chief of Ordnance, (Gen. Ripley,) and opened his business. From this officer he learned that nothing would be done in the way of giving out contracts for the manufacture of arms until after a report, then in preparation, upon the wants of the government in this particular had been submitted. He next applied for, and, it seems, obtained a letter from Mrs. Lincoln, the wife of the President, (*page* 7,) and, as we are led to infer, he presumed, although personally a stranger to her, upon soliciting this high aid in his behalf because he was a friend of her brother-in-law, and was also acquainted with her sister, who had visited at his father's house. (*Record, page* 51.) The contents of this letter are not made to appear. The original is said to have been lost, and though the defendant in error was informed by the writer what it contained, he declines to answer the question, calling for his recollection concerning its purport. (*Record, page* 41.) Doubtless the letter was entirely proper in itself, the source from which it came constituted its value to Mr. Norris, and he parades the fact both in his own testimony as a witness and in his cross-examination of Gen. Cameron,

(*pages* 7, 8, 275,) as one of the evidences of the means which he adopted to accomplish his ends, and as enhancing the value of his influence.

On the 2d of July, 1861, during a visit to Providence, he states his language to Mr. Anthony, the Treasurer of the Company, to have been: "I asked him in regard to the Corporation, what its capital was, as I was using New York influence, and they would like to know,—or influence of an important character—something like that." (*Fol.* 16, *page* 8.) Returning to Washington on the 4th of July, he succeeded, after a most urgent appeal to Gen. Ripley, in which he represented that the Company could perform the impossible task of collecting the necessary machinery and turn out two thousand finished arms within the first four months, in obtaining from Gen. Ripley, more in satire, however, we think, than in earnest, the statement, "Upon your strong recommendation I will recommend the Secretary giving you a contract from 10,000 to 25,000." (*Fol.* 17, *p.* 9.)

He next sought to obtain the influence of Senators Simmons and Anthony. The latter Senator declined to interfere with the business of the departments, alleging that he considered it improper to lend himself to such purposes, but offered to give Mr. Norris a note to the Secretary, introducing him as a man of respectability, and certifying to the responsibility of the Tool Company. To this Norris replied, "I do not want a note, I want the weight of your presence with me—I want the influence of a Senator with me." (*Fol.* 23, *p.* 12.) The Senators called with Mr. Norris upon Gen. Cameron, and stated the business. He at once referred them to Gen. Ripley, to whose office they proceeded, Norris saying to the Senators, "I know Gen. Ripley, but I want the weight of your presence with me." (*Fol.* 25, *p.* 13.) Pending the progress of the matter, which did not receive much encouragement from the Chief of Ordnance, he says, (*fol.* 26,) "I was gathering all the knowledge I could at the War Department, and I knew when Gen. Ripley was sent for by Gen. Cameron, and knew when he saw Gen. Cameron."

On the 11th of July, Mr. Norris was informed by Gen. Ripley that it had been resolved to give out only four con-

tracts for arms; that three of these had been already awarded, and that he had been directed by the Secretary to offer the fourth to certain parties in Ohio, whose answer must be received before anything further could be done for him. (*Fol.* 27, *p.* 14.) In view of this information, he applied again to Senator Simmons for assistance. Mr. Simmons went with Norris to the War Department, and obtained, as was supposed, a favorable direction to Gen. Ripley, in writing. (*Fol.* 30.) When the note of the Secretary, however, was read by Gen. Ripley, it appeared that it was inconsistent with a former order to the same officer, which made it necessary for him to confer with the Secretary before issuing the contract. Mr. Simmons proposed to accompany him, and Norris encouraged him to do so by the expression, "Senator, stick to him." (*Fol.* 31.) The influence of Mr. Simmons turned the scale, the Secretary saying, "Give it to Rhode Island, and let Ohio go."

It was strenuously contended at the trial on the question of fact that the compensation claimed by the defendant in error was exorbitant in view of the actual and legitimate services rendered by him. The question is put to him, after he had detailed all the facts attending the business and influences which he claimed to have called into action, upon what he based his claim. He replies, (*fol.* 95, *p.* 49,) "I combine the whole together. This is the result."

Court. "He applied for a contract, and made use of these means in order to obtain it. I suppose you mean to say, you used these means to accomplish the result?"

Ans. "I used these means to accomplish the result."

The letters from Mr. Norris to the agent of the Company, and to one of the stockholders, are not at variance with his testimony in these particulars.

In his letter to Anthony of July 4, 1861, (*page* 9, *also*, 124,) he says: "Political influence can be obtained here, but what will do more good are strong letters as to your ability to do work right and to push it through." And again, in letter to the same, July 10th: "I would suggest your sending me letters to our Senators or the Secretary, or both, from Mr. Waterman, Mr. Bowen, and any others that would

give weight and influence. This is a large matter and promises great advantage to your Company, and Rhode Island deserves the contract, and no effort of mine will be wanting to secure it." (*Page* 11, *also*, 126.)

To Mr. Tully D. Bowen, a connexion of his by marriage and a stockholder in the Company, he writes under date of July 10th, (*Record*, *page* 226,): "If the question of my compensation should be discussed, I should be glad if you could secure a distinct understanding concerning it. Mr. Anthony said to me, when the number talked of was 50,000 instead of 25,000, that he would pay me all I could get over $15, I would now like an agreement to have all I can get over $17, and if only that price can be obtained, then from fifty cents to one dollar on each musket. The compensation should be large, for I have been concentrating influence at the Department from New York and this place in favor of this Company; besides, I have devoted a good deal of time to it, and have information worth many thousands of dollars to parties applying for the contract." And again, under date of July 11th, he says, "At $17 there will be a very large margin of profits, and they can well afford to pay liberally."

Although if the fact were otherwise it would not affect the rule of law applicable to this class of agreements, it cannot with truth be said that the plaintiff in error encouraged the defendant to make an agreement against the policy of the law, and accepted the service but refused the compensation. The whole enterprise originated with the defendant, he proposed the scheme and volunteered its execution. It is true, that his reward was to be contingent upon his success and the agent of the Company was willing that he should make the attempt, but he did not enter heartily into the matter, and certainly suggested no course of conduct which reflects prejudicially upon himself or the Company. To Norris' application to him, in his letter of July 4th, to come on to Washington, he replied, (*page* 125,): "I have to make a trip now in quite another direction, besides, it seems hardly possible that the government would pay for muskets a price at which we could afford to contract for 25,000, we requiring

new machinery and tools for the purpose, and with the prospect that when this lot is completed we should have no further business in this line." And again, he says, in his letter of July 12th, (*page* 127): "I cannot say *positively* that our Company would make a contract at any price. What I desire to do is, to get all the information possible in the matter, and go so far with a contract that we can secure one if we wish."

After the contract had been offered and Mr. Norris made his demands for payment, the plaintiff in error offered to pay him the very liberal compensation of fifty cents upon each musket, or the equivalent of $12,500. But this the plaintiff refused to accept, but offered to take $25,000. The Company would not accede to this, and the parties concluded to stand upon their respective positions in the law as the same shall be determined by the courts.

There is another point in which the charge of the Court was clearly wrong, and which may be briefly considered.

The defendants requested the Court to charge the jury,

That it is evidence which the jury, upon the subject of the value of the plaintiff's time, may properly consider that the plaintiff at the time he undertook the business of procuring the contract for making muskets in question, and while he was engaged in it, was seeking employment in the capacity of a Paymaster in the Army or Navy of the United States, the compensation for which is fixed by law at the sum of $189 per month.

And upon this request the Judge did charge the jury

As to the fourth: "I shall not so charge you because I think, if the plaintiff was willing to serve his country as a paymaster for $189 per month, you have no right to say that he shall not recover any more in this case for his services rendered to the defendant. It seems to me no proper measure of compensation in the one case and in the other. A man may be induced, especially in times like these, when the country calls for almost every man to do his duty, he might be willing to serve his country for a much less price than he would be willing to serve individuals."

It is hardly necessary to cite authorities to the point that an erroneous instruction in matter of law which might have influenced the jury, or which had a tendency to make an erroneous impression upon the minds of the jury, and to mislead them in their views of a case, is ground for a new trial. The rule and the reasons for it are well stated in the following cases:

Thus in *Baylies, &c. v. Davis, et. al.*, (1 *Pick.*, 206,) the question of fact submitted to the jury in an action against the sureties upon a guardian's bond, was whether a decree of the Court of Probate settling the guardian's account had been procured by collusion and fraud, and the Court erroneously told the jury that if they found in favor of the sureties, the guardian could be summoned to render a new account.

The Court say:

"That opinion was certainly calculated to have an effect on the minds of the jury, and to render them more willing to render a verdict against the plaintiff than they otherwise might be," &c.

And *Law v. Crombie* (12 *Pick.*, 177,) where an action was for damages resulting from defendant's negligence in driving on the highway, and the Court erroneously instructed the jury that if the defendant relied on the want of ordinary care in the plaintiff the burden was on him to prove it, and the verdict was for the plaintiff, and the Court say:

"In the actual state of the evidence it is extremely probable that this direction made no difference in regard to the result, still if the evidence was such that the jury *might have decided the other way* upon this point, &c., such a direction may have had influence to mislead the jury, and therefore the Court *are all now of opinion* that the verdict must be set aside," &c.

And in *Hut v. Anderson*, (9 *Conn.*, 107,) it was held that remarks of the Judge upon the evidence, which were followed by an increase of damages, were a good ground for new trial.

And in *Benham v. Carey*, (11 *Wendell*, 83,) the new trial was granted because the remarks of the Court tended to mislead the jury.

A simple statement of the case will show that the charge was erroneous. The question which the jury had to consider upon this count was, how much the plaintiff's services were worth. Their value was made up of the time employed, the skill used, the value of the result, &c. There is no better mode of getting at the value of any man's time and skill than finding out what he can get for them in the market, and no more direct way of ascertaining what he can get than inquiring what he was willing to sell them for; and inasmuch as the plaintiff was then seeking an office the pay of which was $189 per month, the defendants prayed that the Court would say to the jury that they might properly consider this fact, and the Court not only refused to give this simple and proper instruction, but accompanied the refusal with remarks, which not only might influence the jury, but which, if they did have any influence, must have misled the jury.

The Court also erred in its instruction to the jury upon the third request made by the defendant's Corporation.

The request was as follows:

That upon the *quantum meruit* count, the plaintiff is not entitled in law to recover any other sum of money for services rendered to the Providence Tool Company, in procuring a contract for making arms, than a fair and reasonable compensation for the time spent, labor performed, and expenses incurred in performing such services, to be computed at a price for which similar services could have been obtained from others.

And in this connection, if the jury believe that the contract for making muskets, dated July 13th, 1861, was granted by the Secretary of War to the Providence Tool Company,

upon the simple application of the Senators representing the State of Rhode Island, and upon their recommendation of the defendants; and if they also believe that such application was made by the Senators, not on account of any influence of the plaintiff over them, nor from any desire to gratify him, but solely because they were desirous of aiding the Providence Tool Company, then the plaintiff is entitled for his services to ordinary compensation only, (*as distinguished from extraordinary compensation for peculiar skill,*) that is to say, his expenses necessarily incurred, and the fair value of his time while actually employed on the business of the defendants.

And the Court instructed the jury—

As to the third, "Gentlemen, I am inclined to give you that in charge, omitting the words 'similar services might have been obtained from others,' for every man of course stands upon his own ground. One man's services may be worth more than another's."

As to the request in connection with the preceeding, "I will give you this in charge, with some qualification; 'entitled for his services to ordinary compensation only.' I should leave out the word 'ordinary,' and say, to compensation for expenses necessarily incurred, and the fair value of his time and of his talents, and I would say, while actually employed in the business of the defendants."

It will be observed that the latter portion of the request is founded upon the facts proved by the testimony of Senators Anthony and Simmons, and Secretary Cameron, (*see record page* 272 *to page* 289) and if their statement is to be believed the contract in question was awarded to the Providence Tool Company, not in consequence of any influence which Norris exerted, emanating from himself and for which he claims the large compensation which his writ demands, but because the Senators had confidence in the gentlemen composing the Tool Company, and the Secretary trusted to the recommendation of the Senators.

In view of this hypothesis the Court was requested to instruct the jury that if they believed this testimony, the plaintiff below was entitled to *ordinary* compensation only as distinguished from *extraordinary* compensation for peculiar skill.

It is unnecessary to argue that with all the elements

stricken out upon which Mr. Norris could otherwise claim that he had rendered services to the Company which resulted in benefits to them which but for his influence would not have been obtained, the measure of his proper compensation is just that which the request to the Court supposes. The error of the Court consists in qualifying the language by omitting the word "ordinary," and thereby giving an erroneous impression to the jury.

Technically considered, the language of the Court is substantially correct. The rule that the plaintiff below was "entitled to compensation for expenses necessarily incurred and the fair value of his time and talents, while actually employed in the business of the defendants," would have been an unobjectionable statement of the law, if in giving this instruction other words had not been used, the tendency of which was to create an erroneous impression upon the minds of the jury, by appearing to qualify the proper request which was made to the Court, wherein the sense in which the words "*ordinary* compensation" are used, is defined to be in distinction from *extraordinary* compensation for the exercise of peculiar skill and weighty personal influence, which was the foundation of the plaintiff's demand.

In *Gilmore vs. McNeil*, (45 *Maine Reps.* 599,) it is held that though instructions to the jury are technically accurate, yet if they are calculated to mislead the common and ordinary mind not conversant with legal terms and phrases, the verdict will be set aside. For a stronger reason the verdict ought not to be sustained, if a proper request in view of the state of facts referred to is so qualified as to ignore the very distinction between that and other parts of the proof which it was designed by the request to bring out.

A. PAYNE,
B. F. THURSTON, } *Of Counsel for Pltf's. in error.*